United States General Accounting Office

GAO

Report to Congressional Requesters

February 1999

FEDERAL TRADE COMMISSION

Information on Proposed Regional Restructuring Effort

19990324 028

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GAO/GGD-99-25

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United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-281687

February 16, 1999

The Honorable James M. Jeffords
The Honorable John F. Kerry
The Honorable Olympia J. Snowe
United States Senate

The Honorable Scott McInnis
The Honorable Diana DeGette
The Honorable Joel Hefley
The Honorable Bob Schaffer
The Honorable Edward J. Markey
House of Representatives

This report responds to your request that we review the Federal Trade Commission's (FTC) June 1998 proposal to restructure its regional operations. FTC is responsible for administering a variety of statutes that focus on two areas. First, through its consumer protection activities, it seeks to protect the public from unfair and deceptive acts and practices in the marketplace. Second, through its competition or antitrust activities, FTC seeks to promote competition in the marketplace. FTC's consumer protection and competition activities are currently carried out in its headquarters office in Washington, D.C., and in its 10 regional offices in Atlanta, Boston, Chicago, Cleveland, Dallas, Denver, Los Angeles, New York City, San Francisco, and Seattle.

In June 1998, FTC Commissioners approved a proposal to restructure FTC's regional operations to include (1) reconfiguring the 10 existing regional offices to 8 offices in 7 regions; (2) closing the Boston and Denver regional offices and shifting responsibility for the states covered by those offices to other regional offices; (3) merging the management and administration of the 2 California offices (Los Angeles and San Francisco) under 1 director, located in San Francisco; (4) allowing all staff in the closing offices to transfer to other offices; (5) transferring the 33 staff positions from the 2 closing regions to other regional offices and headquarters; and (6) focusing FTC's regional work on competition or antitrust matters in 3 proposed regional antitrust centers—most probably located in San Francisco, Cleveland, and New York City—with the other regions continuing to perform this work only on a limited basis. FTC suspended plans to implement its restructuring proposal, pending the completion of this report. FTC's proposed regions and their corresponding offices would be the Northeast Region (New York City), East Central Region (Cleveland), Southeast Region (Atlanta), Midwest Region

(Chicago), Southwest Region (Dallas), Northwest Region (Seattle), and Western Region (San Francisco and Los Angeles). Figures I.1 and I.2 in appendix I show FTC's current and proposed regional structures.

As agreed, the objectives of this report are to provide information on (1) FTC's rationale for proposing the regional restructuring, (2) the process FTC followed in developing its restructuring proposal, (3) factors FTC used and could have used in deciding how to restructure, (4) other options to the proposed restructuring identified in prior FTC studies or by Boston and Denver regional officials, and (5) the views of selected stakeholders regarding the impact the proposed restructuring could have in the areas covered by the Boston and Denver regional offices.

Results in Brief

FTC's rationale for developing its proposal to restructure its regional operations was to address its growing concerns about an increased and more complex workload in the face of limited staffing resources. Specifically, according to FTC officials, the proposal was to accommodate increased and more complex workloads for both its competition and consumer protection missions. Headquarters officials said that they believed staff resources were not allocated efficiently to regions—that is, regions were too small for efficiently carrying out FTC's mission—given its workload. Boston and Denver regional officials disagreed that regions were too small to effectively contribute to FTC's competition and consumer protection missions and said that regions have made significant contributions to these missions.

FTC's decisionmaking process for developing its proposal consisted of deliberations among headquarters officials during the early months of 1998. Although FTC officials said they had previously alerted regions to the possibility of a restructuring, the process for developing the current proposal did not include discussions with staff or managers in its Boston and Denver offices. In addition, FTC's process for developing the proposal did not include discussions with external stakeholders that work with these regions. In its strategic plan, FTC identified some of these stakeholders as partners in helping it carry out its mission. According to FTC officials, after FTC developed the restructuring proposal, but prior to submitting it to the Commissioners for approval, FTC consulted with concerned Members of Congress and officials of the Department of Justice's (DOJ) Antitrust Division about the proposal. These officials also said FTC contacted other external stakeholders concerning the proposal after the Commissioners had voted on and approved the proposal.

According to FTC's proposal, the decision to close the Boston and Denver regional offices and to retain the remaining eight offices was based on three factors—population, gross state product (GSP), and the percentage of consumer fraud cases FTC filed in federal courts within each region. According to FTC headquarters officials, FTC also considered staff expertise and geographic location as factors for retaining offices in San Francisco and Seattle. In addition, FTC officials said that FTC used geographic location as a principal factor in deciding where it would most likely locate the three proposed regional antitrust centers. FTC staff from the Boston and Denver offices and our review of FTC documents identified other factors—productivity, future population growth, and cost—that FTC could have used in making its decision to restructure regional operations. FTC officials said they considered these factors but decided not to use them for a variety of reasons. For example, FTC officials said that they did not use productivity because, among other things, it is difficult to measure. Likewise, they said they did not use future population growth because they did not believe it would have changed the relative ranking of regions by population.

FTC presented a single approach for restructuring its regional operations because, according to FTC officials, it considered other options to be impractical or unrealistic. Our review of a prior FTC restructuring study and discussions with the Boston and Denver regional officials identified 10 possible options that FTC could have considered, such as closing different offices, shifting all regional competition resources to headquarters, seeking additional resources from Congress, or maintaining the status quo. FTC officials said that they considered several of these options but did not deem them to be acceptable or realistic because they either (1) did not sufficiently balance FTC's dual mission of consumer protection and competition, (2) were more disruptive of FTC's regional operations than the proposed restructuring, (3) called for additional resources that FTC did not believe would likely be forthcoming, or (4) did not sufficiently address the underlying rationale for undertaking the current restructuring effort.

Stakeholders' views about the potential effects of FTC office closures were mixed. Some of the external stakeholders we contacted refrained from commenting on the potential effect of the closures of the Boston and Denver regional offices. Concerning consumer protection matters, most of the external stakeholders who expressed a view said that they believed the closures would have a negative impact. These views primarily involved concerns that (1) FTC staff from different regions of the country would not be able to devote the time to or did not have knowledge of regional issues and (2) FTC would not be able to adequately replace the service and

assistance provided by the FTC Boston and Denver regional offices. However, of those external stakeholders who had views on competition matters, opinions were more varied. Some stated that they supported the proposal, whereas others said that competition matters would be negatively affected. In addition, Boston and Denver FTC officials said they believed consumer protection and competition matters would be negatively affected. In September 1998, FTC headquarters officials provided us with plans for continuing services in the New England and Rocky Mountain areas. These officials said they believed these plans would mitigate the perceived negative impacts on both consumer protection and competition matters.

Background

Congress established FTC in 1914 as an independent administrative agency. FTC is responsible for enforcing federal statutes to protect the public against unfair and deceptive acts and practices and to promote competition.[1] The Commission is composed of five members, all of whom are appointed by the President and confirmed by the Senate to staggered 7-year terms. No more than three Commissioners may be from any one political party. One Commissioner is designated by the President as Chairman of the Commission and is responsible for its administrative management.

FTC carries out its mission through the work of three bureaus. The Bureau of Competition (BC), FTC's antitrust arm, works to promote competition by preventing anticompetitive mergers and other anticompetitive business practices.[2] BC investigates alleged violations of law and when appropriate, recommends that FTC take formal enforcement action. If FTC decides to take action, BC may take such action through litigation in federal district court or before agency administrative law judges. BC is also responsible for reviewing certain mergers and acquisitions under the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976.[3] In general, parties to mergers or acquisitions covered by the act must file their proposals with FTC and the Antitrust Division of the DOJ prior to consummating the

[1] FTC was established under the FTC Act of 1914, as amended (15 U.S.C. 41-58). FTC is responsible for enforcing section 5 of the act, which prohibits unfair or deceptive acts or practices in or affecting commerce, unfair methods of competition in or affecting commerce, and the Clayton Act. Congress has also enacted over time, a number of other special statutes relating to consumer protection and trade regulation, which FTC also enforces.

[2] BC shares its mission with DOJ's Antitrust Division. According to FTC, the two agencies consult before opening any case in order to prevent duplication of effort. In general, the Antitrust Division concentrates on such matters as price fixing that may warrant criminal prosecution, and on certain specific industries that are not within FTC's jurisdiction.

[3] 15 U.S.C. 18a.

transaction.[4] The two agencies generally are allowed up to 30 days to request additional information from either or both parties. This request extends the waiting period for a specified period of time, generally 20 days, and allows FTC or DOJ to determine whether it will challenge the merger. Appendix II provides additional information on the HSR Act and FTC's associated responsibilities.

Another FTC bureau, the Bureau of Consumer Protection (BCP), works to protect consumers through the prevention of deceptive and unfair practices in the marketplace. BCP enforces a variety of consumer protection laws enacted by Congress. BCP actions include individual company and industrywide investigations, administrative and federal court litigation and rulemaking proceedings, and consumer and business education. The third FTC bureau, the Bureau of Economics (BE), provides economic analyses and support to consumer protection and antitrust casework and rulemaking; analyzes the impact of government regulation on competition and consumers; and, when requested, provides Congress and the executive branch with economic analyses of various aspects of the American economy. BE supports BC and BCP in carrying out FTC's competition and consumer protection work.

FTC's regional offices are to conduct investigations and litigation, provide advice to state and local officials, recommend cases, provide local outreach services to consumers and businesspersons, and coordinate activities with federal, state, and local officials. The regional offices also are to sponsor conferences for small businesses, local officials, and consumer groups. Although regional consumer protection and competition activities are to be cleared through FTC's bureaus—BCP and BC—in Washington, D.C., regional offices report to FTC's Office of Executive Director (OED). FTC has reorganized its regional structure numerous times since FTC was established. The current 10-region structure has been in place since 1978. However, since then, FTC has twice considered regional restructuring before the 1998 effort—once in the early 1980s and again in 1987. The 1987 effort culminated in an extensive study of resource allocation issues. Appendix III provides greater detail on FTC's analyses of restructuring during the 1980s, including FTC's 1987 resource allocation study.

FTC is largely self-financed by fees that companies must pay when they file required merger notification documentation in compliance with the

[4] Whether a certain acquisition or merger is subject to HSR Act requirements depends on the value of the acquisition and the size of the parties as measured by their sales and assets.

HSR Act. Even though FTC is largely self-financed by fees, it must receive congressional authorization to spend its revenues. For fiscal year 1998, FTC received budget authority of about $106.5 million, of which $88 million resulted from filing fees. FTC was authorized 960 full-time equivalent (FTE)[5] positions,[6] of which 502 were dedicated to carrying out FTC's consumer protection mission. The remaining 458 FTEs were dedicated to the competition mission. In fiscal year 1998, FTC allocated 792 FTEs to headquarters and 168 FTEs to its 10 regional offices.

Scope and Methodology

To gather the information required to meet our objectives, we obtained and reviewed FTC statutes relating to its authority, FTC reports, Commission internal correspondence, and congressional appropriation hearings for FTC; the proposed regional restructuring plan and supporting FTC data and analyses; and documentation related to FTC's mission, goals, and objectives. We interviewed FTC headquarters officials in Washington, D.C., and regional officials in the Boston and Denver offices. We also interviewed officials in the regional offices that are slated to take over the responsibilities of the Boston and Denver regions—Chicago, New York, San Francisco, and Seattle. In addition, we interviewed external stakeholders in selected federal, state, and local organizations that work with the Boston and Denver regions and selected organizations that work with FTC headquarters. We did not verify information provided by FTC officials or information provided by representatives of other organizations we contacted. We did not draw any conclusions about whether FTC's proposal was necessary or appropriate or based on sound management because there are no established criteria regarding federal office restructuring.[7] We did our work in Washington, D.C., Boston, Denver, and Dallas between June 1998 and January 1999, in accordance with generally accepted government auditing standards. Appendix IV discusses our objectives, scope, and methodology in greater detail.

[5] An FTE generally consists of one or more employed individuals who collectively complete 2,080 work hours in a given year. Therefore, either one full-time employee or two half-time employees equal one FTE.

[6] The authorized level of FTEs referred to by FTC is the level of FTEs approved by the Office of Management and Budget, and not necessarily a level of FTEs set in law or committee report.

[7] In our report entitled Facilities Location Policy: GSA Should Propose a More Consistent and Businesslike Approach (GAO/GGD-90-109, Sept. 28, 1990), we noted that while there were several laws and executive branch orders that frame the government's general policy on location decisions, there was no consistent and cost-conscious federal location policy. We recommended that General Services Administration (GSA) develop such a policy for congressional consideration. In March 1997, GSA issued an interim rule concerning the physical location of facilities and space in urban areas. The rule did not address internal agency organization and restructuring issues.

We requested comments on a draft of this report from FTC's Chairman. These comments are discussed near the end of this letter and are reprinted as appendix VIII. We also verified with the federal, state, and local organizations we contacted that we had properly characterized their views.

FTC's Rationale Was to Manage Its Workload More Efficiently

FTC's rationale for developing its proposal to restructure its regional operations was to address its growing concerns about an increased and more complex workload in the face of limited staffing resources. Specifically, according to FTC officials, the proposal was to accommodate increased and more complex workloads for both competition and consumer protection matters. Headquarters officials said they believed staff resources were not allocated efficiently to regions—that is, regions were too small for efficiently carrying out FTC's mission—given its workload. Boston and Denver regional officials disagreed that the size of the regions prevented them from contributing effectively to FTC's competition and consumer protection missions and said that regions have made significant contributions to both areas of work.

FTC Intended Its Proposal to Address an Increased Competition Workload

One reason FTC proposed the regional restructuring was to better manage its large and complex merger workload under the HSR Act. According to BC officials, its current regional allocation of competition resources—5 FTEs in each of the 10 regional offices—did not meet its needs. BC officials said that they needed more resources in headquarters and a sufficient number of experienced staff located in fewer regions to best manage these potentially large and complex HSR merger cases. They said that the proposal to shift most of the regional competition resources either to headquarters or to three regional antitrust centers—most probably located in San Francisco, Cleveland, and New York City—would allow FTC to assign more of the HSR workload currently performed by headquarters staff to the regions. The proposal, according to the BC Director, would enable FTC to have a "critical mass" of experienced staff to work on resource-intensive and deadline-sensitive HSR merger cases in the three regions. According to BC officials, having fewer regions involved in competition work would better enable FTC to manage the workload and would also reduce the amount of BC resources needed to manage the regions.

Although FTC has not finalized its plans for reallocating regional resources, the Executive Director said that she had prepared a draft resource allocation plan to implement the restructuring proposal. She said that as of January 1999, the draft plan had not been presented to or approved by FTC's Commissioners. Under this plan, some of the 33 staff

positions or FTEs from the Boston and Denver regions would shift to BC in headquarters, and the remaining FTEs would shift to the three regions designated as having antitrust centers. In the draft allocation plan, the number of FTEs at the 3 proposed antitrust centers would increase from 5 to as many as 11, while BC headquarters staff allocation would increase by 13 FTEs. The resource allocation plan would reduce the amount of competition work performed by the remaining regions, with the number of competition FTEs in the remaining regions each decreasing from five to one. According to FTC officials, the one remaining FTE in each of the regions that are not designated as having an antitrust center would be assigned to perform activities such as monitoring competition issues in those regions, alerting the antitrust centers to potential anticompetitive activities, and maintaining contact with the state attorneys general. Table 1 shows the current and proposed allocation of competition resources by regional office as of July 1998.

Table 1: Current and Proposed Allocation of Regional Competition FTEs

	Competition FTEs	
Regional office	Current	Proposed[a]
Atlanta	5	1
Boston	5	[b]
Chicago	5	1
Cleveland[c]	5	10
Dallas	5	1
Denver	5	[b]
Los Angeles[d]	5	0
New York[c]	5	10
San Francisco[c]	5	11
Seattle	5	1
Total	**50**	**35[e]**

Note: As discussed earlier, the names of the regions would change under the proposed restructuring. For purposes of this table, however, we present the current regional office names.

[a]Proposed as of July 1998. OED officials said that the FTC Commissioners have not yet approved this draft allocation of FTEs.

[b]Under the proposed restructuring, the Boston and Denver regional offices would be closed.

[c]Designated as having an antitrust center under the FTC restructuring proposal. According to BC officials, to staff the antitrust centers, it is likely that FTC will need to hire from the outside and also allow staff currently working in regions not designated as having antitrust centers to transfer to the regions having antitrust centers.

[d]Under the proposed restructuring, the Los Angeles office would report to the Western region, located in San Francisco.

[e]The proposed reallocation would transfer 13 competition FTEs in the regions to BC headquarters. In addition, it would transfer 2 competition FTEs in the regions to consumer protection in the regions, leaving a total of 35 regional competition FTEs.

Source: OED, FTC.

FTC officials said that one of the reasons for transferring competition resources was to address the increased number of HSR merger filings given its relatively flat resources. FTC provided data that showed that the

number of competition FTEs has fluctuated between 312 and 343 FTEs over fiscal years 1991 to 1998. Over the same period, HSR merger filings more than tripled from 1,529 in fiscal year 1991 to 4,728 in fiscal year 1998. FTC officials consider this growth to be part of an increase in merger activity that began after a decline of such activity in the early 1990s. According to an FTC press release, the United States is in the midst of the largest merger wave ever, with the value of mergers exceeding $1 trillion in fiscal year 1998. A BE official said that she could not predict whether mergers would continue to increase at their current pace because merger activity is a function of numerous factors, including technological changes to domestic and global markets. Nonetheless, the official said that she expects the general trend in merger activity and FTC's HSR filing caseload to be on the rise. Appendix II provides information on FTC's responsibilities under the HSR Act, overall merger activity and its unpredictability, and the cyclical variations in HSR merger filings for fiscal years 1979 through 1998.

However, increases or decreases in the number of HSR merger filings alone may not be a good indicator of changes to FTC's HSR workload. In a 1992 hearing before FTC's House Appropriations Subcommittee, the FTC Commissioner stated that

"In the Commission's experience, there does not appear to be an absolute correlation between the number of HSR filings and the number of merger investigations. Thus, the overall number of filings is not an accurate predictor of the number of merger investigations that will be undertaken."

To illustrate the Commissioner's point, we compared HSR filings in 2 separate years. Of the 4,728 HSR merger filings in fiscal year 1998, FTC initiated 46 in-depth investigations, or "second requests" for information. In contrast, in fiscal year 1995, of the 2,816 HSR merger filings, FTC initiated 58 second requests. FTC officials said, however, that a decrease in second requests is not necessarily indicative of a smaller workload. These officials said that FTC invests a considerable amount of work in preliminary merger investigations prior to deciding to issue a second request.

FTC officials said that the increased complexity of mergers was another reason for transferring competition resources under the restructuring proposal. They said that merger transactions in general have become more complex and the volume and complexity of information associated with merger filings has increased. At the same time, federal courts that deal with merger cases have an increasing need for more sophisticated analyses, which in turn has forced FTC to adopt a more complex and

rigorous approach to merger analyses. Thus, FTC officials stated that FTC needs more data, more evidence, and significantly more sophisticated analyses of merger information. They stated that this complexity increases FTC's workload in that FTC needs more resources for investigations and litigation than it did in the past. FTC's strategic plan for fiscal years 1997 to 2002 recognizes the increased workload in HSR merger filings. According to the strategic plan, the continued growth of the merger wave and of competitive forces for change in important sectors of the economy strain the agency's ability to meet its goal of maintaining competition.

Although FTC points to the volume and complexity of merger filings as key reasons for developing its proposal, OED officials said they would continue to move forward with their proposal even if the number of mergers were to decline. The officials said they believe that regional offices are not currently configured to make the best use of limited resources. The BC Director said that headquarters staff perform most of the HSR merger work because this is the only location where FTC has sufficient numbers of experienced staff to manage HSR cases. The director said that headquarters divisions responsible for reviewing HSR mergers, which each consisted of about 30 staff, have the flexibility to handle the resource-intensive and deadline-sensitive HSR work. However, he also said that, in some cases, he must assign staff from other areas of FTC to handle the workload during the second request phase. The director said that with the increased HSR merger workload, headquarters staff are currently under continuous stress and must frequently work beyond normal working hours to handle the workload.

Although regional offices each have about five competition FTEs allocated to them, the director said that this level is not sufficient to successfully manage large HSR merger cases. As a result, according to the director, BC can only assign regional offices a few small and less complex HSR merger cases and nonmerger work, such as investigations of anticompetitive behavior. He also said that the small number of competition FTEs allocated to each region has resulted in regional offices not being able to develop sufficient experience and expertise in conducting large HSR merger cases.

As discussed earlier, as proposed, each of the three regional antitrust centers would have as many as 11 FTEs to perform competition work. According to the BC Director, 9 to 11 FTEs are needed in a location to manage HSR merger cases. While FTC has not performed any formal study of what it refers to as the "critical mass" necessary to perform work at each proposed antitrust center, BC officials said that having 9 to 11 FTEs

at each center would allow the agency to annually assign each regional antitrust center as many as 2 to 3 HSR merger cases that progress to the "second request" stage. According to BC officials, this would reduce the workload currently carried out by BC headquarters staff and would allow staff in the three antitrust centers to develop the expertise needed to perform HSR work. The proposed restructuring would also shift 13 regional FTEs to BC headquarters, which, according to BC officials, would better enable FTC to manage the large HSR workload. Also, according to these officials, reducing the number of regions that BC manages from 10 to 3 would reduce the amount of administration and management resources needed to be spent by BC officials.

FTC headquarters officials said that if the restructuring is implemented, it would probably take FTC a few months, perhaps a year, to fully staff the three antitrust centers, and a few years to gradually phase out the merger work currently performed by the other regional offices. The BC Director said that FTC would likely need to hire from the outside to staff the Cleveland and New York offices, but he said that FTC should have enough transfers from other regions and other offices for staffing the San Francisco office. BC officials acknowledged that staff performing competition work in the regions not designated as having antitrust centers may not be content with the gradual phase-out of antitrust work at those locations. However, BC officials said that staff interests can change and staff can transfer.

Boston and Denver FTC Staff Disagreed With FTC About the Number of Regional Staff Needed to Work on HSR Merger Cases

Boston and Denver regional staff disagreed with FTC headquarters officials' position that regions were currently too small to perform a significant amount of HSR merger work. They also questioned headquarters officials' position that the current structure did not enable regions to develop sufficient expertise. In particular, the Boston and Denver staff said that they believe a larger number of staff, or a "critical mass," is not necessary for regional offices to fully participate in conducting HSR merger work. Boston officials said that HSR merger work can be successfully accomplished with the five FTEs allocated to each region to do competition work and that regional offices have successfully settled large merger cases, including the Boston office, which recently settled a case. The officials further stressed the contribution of other regional offices that have litigated merger cases, including Denver, which has litigated one case and assisted another region in litigating one case.

Further, the Boston officials said that regional offices generate their own nonmerger cases and review essentially all regional health care mergers. Boston officials said that regional offices are valuable in that they generate

non-HSR merger work, including investigations of small, local mergers and other anticompetitive activity. Boston officials said they spent approximately 40 percent of their time in fiscal year 1998 on competition matters—primarily mergers. Denver regional officials also said that in the period July 1997 through June 1998, Denver staff conducted five HSR merger investigations, four non-HSR merger investigations, and three nonmerger investigations. Further, they stated that Denver is one of only two regional offices to have litigated a preliminary injunction action in a federal court. The Denver officials told us that regional offices spend more of their competition resources on nonmerger cases, which is an area that they believe BC headquarters has not devoted many resources to. Appendix V contains information on the number of HSR, non-HSR, and nonmerger cases that regions and headquarters managed in fiscal years 1993 through 1998.

FTC Intended Its Proposal to Address Increased Consumer Protection Workload

Another reason FTC developed the regional restructuring proposal was to address its increasing consumer protection workload. According to BCP officials, the proposed restructuring would concentrate slightly more consumer protection resources in fewer regional offices. In their view, having a larger number of consumer protection staff in each of the remaining regions would better enable the regions to work on larger, more labor-intensive consumer protection cases. Furthermore, these officials said that by focusing the regional competition work primarily in three antitrust centers, as discussed earlier, regional consumer protection resources would be better insulated from the demands of the time-sensitive HSR work.

The Executive Director's proposed resource allocation plan to implement FTC's regional restructuring proposal would increase consumer protection resources in the remaining eight offices by as many as seven FTEs and the total number of consumer protection FTEs in the regional offices by two. According to the Executive Director, these two FTEs would be reallocated from regional competition FTEs. Table 2 shows the current and proposed allocation of consumer protection FTEs by regional office as of July 1998.

Table 2: Current and Proposed Allocation of Regional Consumer Protection FTEs

Regional office	Consumer protection FTEs: Current	Consumer protection FTEs: Proposed[a]
Atlanta	12	19
Boston	12	[b]
Chicago	12	17
Cleveland	12	13
Dallas	12	16
Denver	11	[b]
New York	12	16
Los Angeles[c]	11	12
San Francisco	12	11
Seattle	12	16
Total	**118**	**120[d]**

Note: As discussed earlier, the names of the regions would change under the proposed restructuring. For purposes of this table, however, we present the current regional office names.

[a]Proposed as of July 1998. OED officials said that FTC Commissioners have not yet approved the draft allocation of FTEs.

[b]Under the proposed restructuring, the Boston and Denver regional offices would be closed.

[c]Under the proposed restructuring, the Los Angeles office would report to the Western region, located in San Francisco.

[d]The proposed reallocation would transfer 2 competition FTEs in the regions to consumer protection in the regions, increasing the total regional FTEs dedicated to consumer protection to 120.

Source: OED, FTC.

According to the BCP Director, FTC's consumer protection workload has increased just as the competition workload has increased. She said that increases have occurred because of (1) the explosive growth of the Internet with associated increases in deception, privacy violations, and spam;[8] (2) the globalization of commerce, with increasing incidence of international fraud, and a growing international concern about privacy and electronic commerce; and (3) changes in telecommunications, specifically deregulation and cramming.[9] According to FTC officials, unlike BC's workload of HSR merger filings, BCP's workload is less easily measured. However, an OED official said that through November 1998, FTC had undertaken 41 Internet cases. FTC resources for Internet work have increased from 4 percent of BCP FTEs in fiscal year 1996 to an estimated 17 percent in fiscal year 1998. According to the BCP Director, these factors have increased BCP's workload and strained its staff. FTC headquarters

[8] Spam is unsolicited commercial electronic mail over the Internet.

[9] Cramming is the practice of companies billing consumers on their telephone bills for services the consumers did not order or use.

provided data that showed actual consumer protection FTEs were 339 in fiscal year 1995 and 375 in fiscal year 1998.

According to the BCP Director, the restructuring proposal will enable FTC to shift to the regions some of the work that is currently being performed in BCP headquarters. She said that currently, BCP headquarters staff perform work that inherently must be performed in Washington, D.C., such as rulemaking, preparing testimony and special reports to Congress, developing centralized consumer protection databases, and developing and organizing nationwide consumer education and outreach programs. In addition, she said that headquarters staff are often required to participate in work that is more conducive to regional operations, such as conducting investigations and initiating enforcement actions, especially on larger, more labor-intensive cases.

The BCP Director said that under the restructuring, she envisions being able to assign regions responsibility for managing specific consumer protection issues—thus freeing up BCP headquarters staff from these responsibilities. She suggested, for example, that one regional office could be assigned to focus on consumer credit rules. Furthermore, she said that reducing the number of regions responsible for consumer protection work would enable FTC to reduce the number of headquarters staff needed to manage the regions.

According to the BCP Director, recent technological innovations—FTC's Internet web site, a consumer complaint handling center, and a related consumer fraud database—reduce FTC's need to have 10 regional offices spread across the country. According to FTC officials, its consumer education materials were accessed through the Internet over a million times over the past year. The FTC's consumer complaint handling center, located in headquarters, consists of staff who receive calls from consumers across the nation concerning complaints or requests for educational materials. The officials said that a toll-free telephone number, anticipated as being functional in the spring of 1999, and additional personnel will make the center more effective. The BCP Director told us that a consumer fraud database, using data compiled from the consumer complaint handling center as well as from federal, state, and local law enforcement agencies and offices in the United States and Canada, will assist BCP in better targeting its limited resources.

According to BCP officials, the proposed restructuring is compatible with BCP efforts to strategically plan its consumer protection work. These officials said that BCP developed a strategic plan that attempts to

prioritize, plan, and allow BCP to centrally manage the consumer protection work to be undertaken each year by both headquarters and regional offices. They said that such central planning and management would allow the agency to address its most pressing consumer protection issues and use its limited resources more efficiently.

Boston and Denver Staff Said They Believe Regions Have Contributed Significantly to FTC's Consumer Protection Mission

Boston and Denver regional officials said they believe that regions overall have made significant contributions to FTC's consumer protection mission. They told us that regions have accounted for a greater percentage of consumer redress and civil penalties and a greater share of consumer protection enforcement work than headquarters, given regional staffing levels. Denver regional staff provided data that showed, for fiscal year 1998, regions and headquarters accounted for about the same number of cases in which there was at least a proposed settlement and that regions accounted for about 70 percent of the total redress and civil penalties during this same time period. They said that both the case with the largest amount of consumer redress—$60 million—and the case with the largest civil penalty—$800,000—were handled by regional offices. FTC headquarters officials said that the Chicago and San Francisco regions, respectively, handled these cases.

Boston regional staff also provided data that showed that, although regions only accounted for about 35 percent of the consumer protection FTEs during the period January 1997 through June 1998, regions handled 59 percent of the consumer protection enforcement actions. According to FTC headquarters officials, breaking down regional and headquarters accomplishments in this manner does not reflect the fact that much of FTC's consumer protection work is collaborative. Appendix V presents information the Boston regional office provided on the number of enforcement actions filed by regions and headquarters and the percentage of consumer protection FTEs used, respectively, for January 1997 through June 1998. Appendix V also presents the same type of information for fiscal years 1993 through 1998, as provided by FTC headquarters officials.

FTC's Decisionmaking Process Did Not Include Coordination With Regions and External Organizations

FTC's decisionmaking process for developing its proposal consisted of deliberations among headquarters officials, including the Commissioners, Executive Director, and officials from BC and BCP during the early months of 1998. However, although FTC officials said they had previously alerted regions to the possibility of a restructuring, the process for developing the current proposal did not include discussions with staff or managers in its Boston or Denver offices. In addition, FTC's process for developing its proposal did not include external stakeholders that work with these regions. In its strategic plan, FTC identified some of these

stakeholders as partners in helping it carry out its mission. According to FTC officials, after FTC developed the restructuring proposal but prior to submitting it to the Commissioners for approval, FTC briefed concerned Members of Congress and officials of DOJ's Antitrust Division about the proposal. FTC officials also said FTC contacted other external stakeholders concerning the proposal after the Commissioners had voted on and approved the proposal.

According to FTC's Executive Director, in January 1998, the Chairman directed that she study how to better integrate regional resources into FTC's overall mission.[10] In response to the Chairman's directive, the Executive Director held internal discussions between January and March 1998 with the BCP and BC Directors as well as their staff. These discussions focused on the nature and type of work, the respective workloads of the two bureaus, regional office workloads, regional strengths and weaknesses, and possible options for restructuring regional operations.

The Executive Director, after discussion with senior officials and Commissioners, decided on which factors to use as a basis for restructuring regional operations and developed a proposal that included closing the Boston and Denver regional offices and transferring the associated resources to other regions and headquarters. According to FTC officials, after developing the proposal in March 1998 but prior to submitting it to the Commissioners for approval, FTC officials briefed concerned Members of Congress, including staff and/or Members of FTC's Appropriations and Authorization Committees and selected senators and representatives from states in the Boston and Denver regions, as well as officials from DOJ's Antitrust Division, about the proposal.

On June 1, 1998, the FTC Commissioners approved a nine-page proposal—four pages of narrative and five pages of charts and graphics—for restructuring regional operations. Other than some analyses of state population, GSP, and consumer protection fraud cases used in developing the proposal, OED officials said that they had no other formal documentation or analyses reflecting FTC's deliberations in arriving at the proposal. In developing the restructuring proposal, FTC did not contact federal, state, or local organizations that work with the Boston and Denver

[10] According to FTC officials, the current proposal was part of an effort FTC began in 1995 to streamline its operations. As a result of that effort, (1) OED reduced 15 percent of its FTEs and transferred them to BCP and BC, (2) BC converted lawyer positions into more cost effective paralegal and investigator positions, and (3) BCP transferred consumer contact representatives from various headquarters units to FTC's consumer complaint handling center.

regions, some of which FTC identified as partners in its strategic plan for fiscal years 1997 to 2002. These partners include organizations such as the state attorneys general and the American Association of Retired Persons (AARP). After the Commissioners voted on the proposal, however, according to FTC officials, FTC contacted concerned Members of Congress, representatives of the American Bar Association's Antitrust Law Section, and officials in almost all of the affected offices of state attorneys general.

FTC also did not request information from its Boston and Denver regions in developing the restructuring proposal. According to the Executive Director, FTC management had alerted all the regional offices about the possibility of FTC's restructuring regional operations, in light of FTC's overall effort to improve agency efficiencies, as early as March 1997. The Executive Director said that FTC management reinforced this message during meetings held with regional officials in the fall of 1997 and again in the spring of 1998. OED officials said that while FTC management originally had intended to include regional officials in deliberations on restructuring FTC operations, management was concerned about (1) the morale of all regional employees and the impact on regional productivity if regions were actively involved in deliberations over potential regional office closings and (2) the inability of regional office personnel to objectively contribute to discussions about whether their own or other individual offices should be closed. Furthermore, OED officials said that FTC formed a task force a few years ago to brainstorm the best use of regional resources but that no permanent solutions were developed as a result of that effort. These officials also said that the former Executive Director had understood from regional liaisons that regions did not want to play a role in discussions about which regional offices should be closed.

The acting regional directors in both the Boston and Denver regions said that they were aware of FTC's efforts to become more efficient and reorganize operations. However, they said that FTC management did not clearly communicate its desire to close any regional offices. They also said that they were not aware of the regional restructuring proposal effort until mid-May 1998. According to a Boston regional official, not only was FTC management unclear about its intentions, FTC management sent mixed signals about its intentions concerning the possible closure of regional offices. For example, in October 1997, FTC management advertised to fill vacant regional director positions in four regional offices, including Boston and Denver. These announcements did not close until December 1997—a month before the Chairman's directive to develop a regional restructuring proposal.

FTC Based its Decision on Three Factors and Could Have Used Others

According to FTC's proposal, the decision to close the Boston and Denver regional offices and to retain the remaining eight offices was based on three factors—population, GSP, and the percentage of consumer fraud cases FTC filed in federal courts within each region. According to FTC headquarters officials, FTC also considered staff expertise and geographic location as factors for retaining offices in San Francisco and Seattle. In addition, FTC officials said that FTC used geographic location as a principal factor in deciding where to locate the three proposed regional antitrust centers. Discussions with FTC staff from the Boston and Denver offices and our review of FTC documents identified other factors—productivity, future population growth, and cost—that FTC could have used in making its decision. FTC officials said they considered these factors but decided not to use them for a variety of reasons. For example, FTC officials said that they did not use productivity because, among other things, it is difficult to measure. Likewise, the officials said they did not use future population growth because they did not believe it would have changed the relative ranking of regions by population.

Population, GSP, and the Percentage of Consumer Fraud Cases Filed by FTC Were Central to FTC's Decision

FTC's initial nine-page proposal cited three factors—population, GSP, and the number of consumer fraud cases FTC filed in federal courts within each region—as the key factors in deciding which offices to close and retain.[11] On the basis of its analysis of these factors, FTC concluded that the Boston and Denver regions represented disproportionately low levels of population and GSP and that those regions did not have a high number of consumer protection fraud cases filed in federal courts as compared with the other regions. For example, the Boston and Denver regions each included approximately 5 percent of the U.S. population, while the other regions, except for San Francisco and Seattle, included substantially more, as of July 1997. Table 3 shows the U.S. Census Bureau estimates of the population and percentage of population for each of FTC's 10 regional offices as of July 1997 that FTC used in its analysis.

[11]The narrative in FTC's restructuring proposal refers to Gross National Product (GNP) as one factor that FTC used in determining how to restructure its regional operations. The proposal also refers to Gross Domestic Product and Gross State Product, which are similar to GNP. In addition, the charts in FTC's restructuring proposal included data that showed the percent of geographic area for each of FTC's current and proposed regions relative to the total U.S. geographic area. The narrative proposal did not include a discussion of how FTC used these data in deciding how to restructure regional operations.

Table 3: Population and Percent of Population for FTC's 10 regions as of July 1997

(Population in thousands)

Region	Population	Percent of population
Atlanta	52,477	19.6
Cleveland	41,151	15.4
Chicago	39,778	14.9
Dallas	31,361	11.7
New York	26,190	9.8
Los Angeles	26,067	9.7
San Francisco	13,620	5.1
Boston	13,379	5.0
Denver	12,942	4.8
Seattle	10,672	4.0
Total	**267,637**	**100.0**

Source: FTC analysis of Estimates of the Population of States: Annual Time Series, July 1, 1990, to July 1, 1997, U.S. Census Bureau, Department of Commerce.

Similarly, FTC concluded that both the Boston and Denver regions accounted for relatively low levels of GSP in comparison to most other regions. Specifically, Boston accounted for approximately 6 percent of total GSP in 1994, while Denver accounted for approximately 5 percent of GSP. Table 4 shows the Department of Commerce GSP data for 1994 and FTC's analysis of GSP for its 10 regions.

Table 4: GSP and Percent of GSP for FTC's 10 regions as of 1994

(Dollars in millions)

Region	GSP	Percent of GSP
Atlanta	$1,154,783	17.7
Cleveland	997,849	15.3
Chicago	957,544	14.7
New York	786,920	12.1
Dallas	706,927	10.8
Los Angeles	645,406	9.9
Boston	369,654	5.7
San Francisco	354,273	5.4
Denver	294,705	4.5
Seattle	251,758	3.9
Total	**$6,519,819**	**100.0**

Source: FTC analysis of total GSP using chained (1992) dollars as reported by the Regional Economic Analysis Division, Bureau of Economic Analysis, Department of Commerce.

Finally, FTC's restructuring proposal also showed that 5 percent and 3 percent of FTC's consumer fraud cases were filed in federal courts in the Boston and Denver regions, respectively. FTC's restructuring proposal did not specify the period for which these percentages were calculated, but an OED official said the period was fiscal year 1979 through the second

quarter of fiscal year 1998—March 31, 1998. Table 5 presents the number of consumer fraud cases filed in federal courts in each of FTC's regions and the related percentages as presented in FTC's restructuring proposal.

Table 5: Number and Percent of Consumer Fraud Cases Filed by FTC in Federal Courts in Each FTC Region for Fiscal Year 1979 Through the Second Quarter of Fiscal Year 1998

Region	Cases filed in the region[a]	Percent of cases filed in the region
Atlanta	182	24
Los Angeles	140	18
Cleveland	82	11
Chicago	76	10
San Francisco	75	10
New York	66	9
Dallas	63	8
Boston	36	5
Seattle	27	4
Denver	20	3
Total	**767**	**100[b]**

Note: FTC's restructuring proposal presented the percentages of consumer fraud cases filed in each FTC region, but did not specify the period for which the percentages were calculated. An OED official said the period covered was fiscal year 1979 through the second quarter of fiscal year 1998. Furthermore, the proposal did not present the numbers of cases filed in each region, as shown in this table. FTC officials provided supporting documentation that showed how they arrived at the percentages included in the proposal, but noted that the data they used were not complete because of an incomplete database. These officials said they knew that some cases were missing from the database but believed the missing data would not materially affect the percentages. These officials later provided data that they stated were complete. The data showed a larger number of cases filed, but the percent of cases filed in each region was essentially the same as shown in this table.

[a]A case may be filed by FTC officials in the region in which the court is located or by FTC officials from another region or headquarters office.

[b]FTC's percentages for the regions do not add to 100 percent due to rounding.

Source: OED, FTC.

FTC officials acknowledged that the Seattle region ranked as the lowest region with respect to both population and GSP and ranked as the second to the lowest region with respect to number of consumer fraud cases filed in courts in that region. However, these officials said that the Seattle regional office was not selected as one that should be closed instead of Boston or Denver because (1) of its past and continuing consumer protection efforts and (2) it contained the largest geographic area of any FTC region. According to FTC officials, telemarketing fraud involving companies located in Canada that call and defraud U.S. citizens has become a growing problem. These officials also told us that joint FTC-Canadian law enforcement efforts have become an important tool in fighting cross-border fraud. They said they decided to keep the Seattle office open because FTC Seattle regional officials have developed good working relationships with Canadian law enforcement officials.

While the Executive Director also acknowledged that the San Francisco region was relatively low in population and percentage of GSP, she said that staff in the San Francisco office had developed a level of expertise in high-technology issues and was close to Silicon Valley. She also said FTC wanted to further develop this expertise. In addition, she stated that, by combining the management of the San Francisco and Los Angeles offices, the population and GSP of the combined region would match those of the other larger FTC regions. OED officials said they decided to retain the Los Angeles office—instead of closing it and having only one office in California—because, according to these officials, the Los Angeles region has covered an area in which fraudulent companies have typically tended to locate. Consequently, these officials said FTC has filed a large percentage of its consumer fraud cases in federal courts located in that area. FTC's proposal states that approximately 15 percent of the consumer fraud cases that FTC filed in fiscal year 1997 were filed in the Southern and Central Districts of California, which have been covered by FTC's Los Angeles region. According to OED officials, even though staff from offices other than the Los Angeles office have filed some of these cases, the Los Angeles office needed to remain open because the Los Angeles regional officials (1) had knowledge of the local courts and were familiar with local court officials and (2) could assist with cases filed by other regions to ensure that the cases progressed smoothly through the courts.

Our interviews with Boston and Denver regional officials indicated that they believed the selective factors FTC used to justify retaining other regions could have been used to justify retaining their offices. For example, Boston regional officials stated that they believed their region has more experience in dealing with Internet fraud issues than other FTC regional offices and has experience with health care mergers in the New England area. OED officials disagreed with the Boston regional officials' claims of Internet fraud experience and noted that Boston has worked on two of FTC's Internet-related cases. As discussed earlier, as of November 1998, FTC had undertaken 41 Internet-related cases.

Boston regional officials also said that the Boston region accounted for the fourth largest number of FTC consumer protection fraud filings for the period January 1997 through June 1998 and that Boston regional officials were responsible for filing seven of the eight FTC cases in New England courts during that period.[12] Denver officials said that Denver staff were

[12] FTC's proposal showed that the Boston region ranked eighth out of the 10 FTC regions in terms of the percentage of FTC consumer fraud cases filed in federal courts in those regions. An OED official said that in calculating the percentages in the proposal, FTC used cases filed in fiscal years 1979 through the second quarter of fiscal year 1998.

also familiar with the fraud and privacy issues challenging FTC in dealing with the Internet and other high-technology industries. These officials said that many high-technology industries are located in Denver, and regional office staff have worked closely with those industries to help them formulate a program of self-regulation. In addition, Denver regional officials said they also have expertise in numerous areas such as franchise and business opportunity fraud, telemarketing, advertising, funeral rule enforcement, and antitrust cases in the health care area.

FTC Used Geographic Location to Select Which Regions Would Be Antitrust Centers

Concurrent with FTC's decision to close the Boston and Denver regional offices, FTC officials determined that FTC should retain antitrust work in selected regional offices and used geographic location as a principal factor in selecting which offices should have regional antitrust centers. According to OED officials, FTC decided to retain a regional presence for antitrust work to address some local issues and to continue to work with state attorneys general.

According to the BC Director, FTC decided to maintain a regional presence by creating three antitrust centers—one on the West Coast, one on the East Coast, and one near the middle of the country. FTC proposed San Francisco, New York City, and Cleveland as the most likely locations for the antitrust centers. The BC Director told us that San Francisco was selected because, as noted earlier, the San Francisco regional officials had experience with high-technology issues, given San Francisco's proximity to Silicon Valley, and FTC officials considered San Francisco a business hub with many antitrust attorneys located there. New York City was also selected, according to BC officials, because it was considered a business hub with many of the law firms FTC routinely works with located there. According to BC officials, the Cleveland office was selected because of its location in the U.S. interior and also because FTC recognized it could fill the existing vacancy for Regional Director in the Cleveland region with an individual having considerable antitrust experience.

FTC Could Have Used Other Factors

FTC officials from the Boston and Denver regional offices and our review of FTC documents identified other factors—productivity, future population growth, and cost—that FTC could have used in making its decision to restructure regional operations. FTC officials said that they considered these factors but decided not to use them for a variety of reasons.

Productivity

FTC officials in the Boston and Denver regional offices said they believed that FTC should have used productivity in determining whether to restructure operations. FTC's proposal did not contain analyses of (1)

consumer protection and competition cases filed by regional offices and headquarters or (2) consumer education and outreach activities by those offices and headquarters. OED officials said that they deliberately avoided using hard-to-quantify factors, such as productivity, in determining which offices to close. Further, they chose not to use productivity as a factor because they were concerned that it might have a negative impact on staff morale, both in the regions and in headquarters, now and in the future. They added that problems with using productivity as a factor in deciding which offices to close include (1) selecting an appropriate measure of productivity, such as the number of cases or investigations an office recommends for filing or the impact a case might have; (2) deciding whether, and if so how, to adjust for differences in the complexity of cases an office undertakes; (3) accounting for any assistance provided by other FTC offices, such as BC assistance on regional office cases or regional assistance on BC cases; and (4) adjusting for other factors, such as the impact that unfilled positions or employees' extended leave might have on productivity. Furthermore, OED officials said that FTC attempted to use data, such as the number of enforcement cases filed by a region or a bureau, to measure performance under the Government Performance and Results Act of 1993,[13] but neither the regions nor the BC or BCP staff supported such use.

FTC's 1987 Resource Allocation Study also discussed the issue of productivity as a factor to allocate resources. Among other things, the study showed that using productivity was problematic because any number of factors, such as FTEs, enforcement activities, and the complexity of cases, could be used to conclude either that regions were more productive than headquarters or that headquarters was more productive than regions. Furthermore, the study pointed out that headquarters and regional staff have collaborated on various issues, making it difficult to distinguish who deserves credit for accomplishments. Appendix V contains more detailed information on the productivity issue discussed in the 1987 Resource Allocation Study.

Future Population Growth

Denver regional officials said that FTC could have used future population growth as a factor in deciding whether it should restructure its regional operations. They stated that even though the Denver region's current population ranked among the lowest of the regions, with the general westward shift of population over the last 2 decades, a large part of the region has experienced explosive growth. Between 1990 and 1997,

[13] The act requires agencies to set goals, measure performance, and report on the degree to which their goals are met.

according to Denver regional officials, the five fastest growing states in the country have been either located in or bordered on the area served by FTC's Denver Regional Office. The officials said these states include Arizona, Colorado, Idaho, Nevada, and Utah. Further, regional officials stressed that the region serves eight of the U.S. counties classified as the fastest growing counties in the United States between the years 1990 and 1997.

OED officials said that they considered using future population growth as a factor in determining which regional offices to close because they were aware that the population in the United States is shifting from the northeast to the south and southwest. They said that FTC decided not to use future population growth as a factor because some FTC regions were currently so low in population that even spectacular growth over the next 10 to 15 years would not significantly change the regional percentage of total U.S. population relative to other FTC regions. Subsequent to our discussion about future population growth with headquarters officials, the Executive Director asked BE to make population projections based on growth. FTC's projections showed that, whereas the Denver region included 4.84 percent of the population in 1997, it was expected to grow to 4.94 percent by the year 2002 and to 5.03 percent in 2007. The FTC estimates showed that the Boston region would be expected to shrink from 5 percent of the total population in 1997 to 4.82 percent in 2002 and 4.65 percent in 2007.

Cost

Our review of FTC documents showed that another factor FTC could have used was cost. FTC's 1987 Resource Allocation Study was done to focus on two issues: (1) the distribution of resources between the enforcement bureaus and the regional offices, given the then-current budget context, and (2) options for regional office structure. The study indicated that when closing regional offices, FTC would have realized nonpersonnel cost savings—such as office space rent and telecommunications and equipment costs—associated with the closings. However, although the study recognized that there would be costs associated with a significant redeployment of personnel in consolidating or closing offices, according to OED officials, FTC did not fully analyze the implications of these costs.

We asked FTC officials if they considered cost to be a factor in developing their current restructuring plan. The officials said they considered cost but believed the restructuring would essentially be "budget neutral" in fiscal year 1999 and beyond. To cover possible fiscal year 1998 costs, in June 1998 FTC requested $365,000 in unobligated carryover funds from its Appropriations Subcommittee to pay for, according to OED officials,

moving costs for any Boston and Denver regional staff who wished to move during the summer of 1998. FTC's estimates showed that, at that time, it could have cost about $1.4 million to move an estimated one-third of the staff from Boston and Denver to other locations and sever the remaining two-thirds of the staff who may not have chosen to move.[14] While FTC estimated that it would have saved about $188,000 in office rent in Boston and Denver if it closed the offices on December 1, 1998, as it originally had planned, it did not consider the cost of additional office rental space for the remaining larger regional offices. FTC estimates also did not consider the increased travel costs that might be incurred by other regional offices whose geographic coverage would be increased by the restructuring.

FTC Considered Other Options to Be Impractical or Unrealistic

FTC presented a single approach for restructuring its regional operations because, according to FTC officials, it considered other options to be impractical or unrealistic. Our review of FTC's 1987 Resource Allocation Study and discussions with the Boston and Denver regional officials identified 10 possible options that FTC could have considered. These options were as follows: (1) transfer all competition work to headquarters, (2) shift staff from BCP to BC, (3) request increased funding to address the increased workload, (4) limit resources to more traditional competition work, (5) maintain the status quo and allow regional offices to pool resources, (6) increase the number of staff in each regional office, (7) redistribute consumer protection and competition resources within regional offices, (8) relocate BCP headquarters staff to the regions, (9) keep Boston and Denver regions open at reduced staffing levels, and (10) adopt a regional structure with fewer offices.

FTC officials said they considered several of the identified options. However, the officials said that they did not deem them to be acceptable or realistic because the options (1) did not sufficiently balance FTC's dual mission of consumer protection and competition, (2) were more disruptive of FTC's regional operations than the proposed restructuring, (3) called for additional resources that FTC did not believe would likely be forthcoming, or (4) did not sufficiently address the underlying rationale for undertaking the current restructuring effort. FTC officials had no documentation to show that they considered these other options.

Appendix VI contains a discussion of the 10 options and FTC's comments about each.

[14] This latter cost would include severance pay and any accumulated annual leave for those employees who do not transfer to another federal government agency.

Stakeholders' Views on the Potential Effects of Office Closures Were Mixed

Stakeholders' views about the potential effects of FTC office closures were mixed. Some of the external stakeholders we contacted refrained from commenting on the potential effect of the closures of the Boston and Denver regional offices. Concerning consumer protection matters, most of the external stakeholders who expressed a view said that they believed the closures would have a negative impact. These views primarily involved concerns that (1) FTC staff from different regions of the country would not be able to devote the time to or have the knowledge of regional issues and (2) FTC would not be able to adequately replace service and assistance provided by the FTC Boston and Denver regional offices. However, of those external stakeholders who had views on competition matters, opinions were more varied. Some stated that they supported the proposal, whereas others said that competition matters would be negatively affected. In addition, Boston and Denver FTC officials said they believe consumer protection and competition matters would be negatively affected. FTC headquarters officials said they have plans that would mitigate the perceived negative impacts on both consumer protection and competition matters.

Most External Stakeholders Who Expressed Opinions Said Office Closures Would Negatively Affect Consumer Protection

Officials from the offices of the Better Business Bureau (BBB), AARP, and Federal Bureau of Investigation (FBI) responsible for Boston and Denver and 7 of the 14 offices of state attorneys general, located in the states covered by the Boston and Denver FTC offices, said that the effect of the office closures on consumer protection would be negative. Among other things, the officials who told us that there would be a negative impact on consumer protection said that they doubted that FTC staff from different regions of the country would be able to provide the same level of service the regional staffs were currently providing. Officials from the AARP Midwest and West regional offices, the National Association of Attorneys General (NAAG), and the remaining offices of state attorneys general either declined to comment, were neutral, or stated that consumer protection issues would not be negatively affected. Many of these officials said they had not worked extensively with either the Boston or Denver FTC office. Table 6 presents a summary of the comments obtained from the external stakeholders we contacted.

Table 6: External Stakeholder Views on Effect of FTC Regional Office Closures on Consumer Protection

Stakeholders	Number of contacts	Made no prediction[a]	Predicted no negative effect	Predicted negative effect
AARP	4[b]	1	1	2
BBB	2	0	0	2
FBI	2	0	0	2
NAAG	1	1	0	0
State attorneys general				
New England	6	1	1	4
Rocky Mountain	8	4	1	3
Subtotal	14	5	2	7
Total	**23**	**7[c]**	**3**	**13**

[a]External stakeholders who made no prediction either had no comment or were neutral about the effect of FTC's regional restructuring proposal.

[b]The Boston and Denver FTC regional offices cover states that fall into four AARP regional offices.

[c]Includes four external stakeholders who had no comment and three who were neutral concerning FTC's proposal to restructure regional operations.

Source: GAO analysis of external stakeholder views.

External Stakeholders Believed That More Distant FTC Regional Offices May Not Be Able to Provide the Same Level of Service

One of the primary concerns expressed by external stakeholders centered on whether FTC regional staff from more distant locations could provide the same level of service currently provided by Boston and Denver staff. For example, BBB officials in Boston and Denver said that the closure of the FTC offices in those two cities and the transfer of responsibility for them to locations outside the New England and Rocky Mountain areas would likely result in a lower level of service for the two regions. Boston BBB officials said that they work closely with the Boston FTC office in sharing information and pursuing possible fraudulent activities. They said that because their organization lacks enforcement capability, they forward relevant complaints, cases, and research on possible fraudulent companies to the Boston FTC office. They stated that this working relationship has been particularly important because the state attorneys general cannot generally follow cases outside their state borders; as a result, many fraudulent companies set up operations in one state to reach consumers in another state in order to avoid prosecution. Boston BBB officials said that FTC is unique among locally based agencies because state borders do not constrain its enforcement capabilities; and thus it is able to pursue fraudulent companies whose businesses transcend state lines.

Boston BBB officials also said that if the Boston FTC office were to close, they did not believe that FTC's New York office would have the resources to pursue New England-based complaints because they would give priority to New York cases. Similarly, an official from the Denver BBB said he believed it would be unlikely for San Francisco FTC staff to be as

responsive to consumer fraud problems in Colorado as the Denver FTC staff have been. This official said that the BBB had built a personal working relationship with FTC Denver staff and that the benefits of this relationship would be lost because the San Francisco office would not be likely to have the financial resources or time to continually send someone to the Rocky Mountain area.

Officials from AARP expressed similar views. An AARP Southwest regional official said that her office is concerned about the distance between San Francisco and Denver and the different character of the two regions. She emphasized Colorado's high population growth rate and the need for FTC to maintain a local presence, both to assist law enforcement in combating fraud and to continue providing education and outreach. The AARP Southwest official emphasized the Denver FTC office's importance as a member of a local seniors advocacy group. According to the official, this group meets regularly to exchange information on fraudulent activities, holds public outreach conferences, and produces educational materials for distribution.

AARP Northeast regional officials also expressed their views that senior citizens in Boston would be less likely to contact their new FTC office in New York City concerning their complaints or questions. These officials said that they believed this was due, in part, to regional differences and the long distance between Boston and its newly designated FTC office. AARP Northeast officials also pointed out that they do not believe that New York staff can provide the working knowledge of the New England region as well as the Boston FTC staff. They said that FTC's Boston regional staff have a special role, bank of knowledge, and expertise and that AARP frequently refers consumers directly to the Boston FTC office.

The Boston FBI official we spoke with told us that he works closely with the Boston FTC office, sharing information and jointly investigating cases. He said that it is unlikely that he will be able to work as closely with New York FTC staff because the New York FTC office will be busy with New York consumer protection cases. The Denver FBI official said that he also works closely with the Denver FTC office in investigating cases and sharing information and that he believed there would be a negative impact if the Denver office were to close.

We also contacted officials from the state attorneys general offices covered by the Boston and Denver FTC regions. Of the 14 state attorneys general offices in these 2 regions, 5 were not willing to comment or were neutral on the issue; and 2 stated that there would be no negative impact

on their states. The remainder generally recognized the importance of FTC's presence in the region for consumer protection. For example, officials from New England state attorneys general offices emphasized the importance of the regular meetings with their offices that the FTC Boston office coordinates. One of these officials said she would not be able to attend these meetings if they were to be held in New York City because of the travel time and cost involved. Two of the officials from the offices of state attorneys general in the New England area also said that it is unlikely that staff in the New York office would be as knowledgeable of issues in New England as staff in the Boston office. Similarly, state attorney general officials from two states that work with the Denver FTC office said that the Rocky Mountain region is very different from the FTC regions that are designated to assume the Denver FTC region's responsibilities (Midwest, Western, and Northwest). Several state attorneys general officials from states in the Denver FTC region also said that they did not believe that these other offices would be able to serve the Rocky Mountain area consumers as well as the Denver FTC region has done.

External Stakeholders Said They Believed That Technological Developments Cannot Replace FTC Regional Office Staff

FTC's proposal emphasizes technological developments and recent innovations, including the consumer complaint handling center and the FTC Internet site, which, according to FTC's proposal, would allow FTC to reach and respond more easily to consumers across the country and would lessen the need for multiple regional offices. Many of the external stakeholders that we spoke with, however, expressed the view that these technologies and innovations would not be adequate replacements for FTC regional officials in Boston and Denver.

For example, Boston and Denver BBB officials emphasized that it is their opinion that the FTC's Internet site cannot be considered as a replacement for a local FTC office because many consumers who are victims of fraud do not have access to computers or the Internet. Furthermore, AARP Northeast officials said that they believed it is not realistic to expect most senior citizens to call a telephone center and attempt to negotiate an automated telephone tree. They said that it is their opinion that these consumers and others would prefer to speak to a local contact that is knowledgeable about local businesses and regional matters and who can offer more personalized advice immediately. Certain officials from the offices of state attorneys general in both regions expressed similar concerns that FTC's consumer complaint handling center, the Internet web site, and a proposed toll-free telephone number would not be an adequate

replacement for the knowledge and services provided by local FTC officials.[15]

External Stakeholders Who Expressed an Opinion Had Mixed Views on the Effect of Office Closures on Competition Matters

The external stakeholders we spoke with who work with FTC on competition matters and were willing to express an opinion had mixed views on the impact of the office closures. These stakeholders included officials from the offices of state attorneys general in the states under the jurisdiction of the Boston and Denver FTC offices, NAAG, the DOJ Antitrust Division, and the American Bar Association.

Officials from three of the six offices of state attorneys general covered by the Boston FTC region and from two of the eight such offices covered by the Denver FTC region predicted that competition matters would be negatively affected. The remaining offices of state attorneys general either made no prediction or stated that competition issues in their state would not be negatively affected by the FTC's regional office restructuring proposal. Most of those officials that did not foresee a negative impact for their state said they typically did not work closely with either the Boston or Denver FTC office on competition issues. An official from NAAG declined to give an opinion on the FTC's restructuring proposal, stating that it was an internal FTC matter. Table 7 presents a summary of the comments obtained from the external stakeholders we contacted.

Table 7: External Stakeholder Views on Effect of FTC Regional Office Closures on Competition

Stakeholders	Number of contacts	Made no prediction[a]	Predicted no negative effect	Predicted negative effect
State attorneys general				
New England	6	2	1	3
Rocky Mountain	8	5	1	2
Subtotal	14	7	2	5
NAAG	1	1	0	0
DOJ Antitrust Division	1	0	1	0
ABA Chair of Antitrust Law	1	0	1	0
Total	**17**	**8[b]**	**4**	**5**

[a]External stakeholders who made no prediction either made no comment or were neutral about the affect of FTC's regional restructuring proposal.

[b]Includes five external stakeholders who had no comment and three who were neutral concerning FTC's proposal to restructure regional operations.

Source: GAO analysis of external stakeholder views.

[15]After our conversations with these stakeholders, Congress passed FTC's fiscal year 1999 appropriations, which provided $3.9 million more than the $112.8 million requested by the President. The FTC Executive Director said that the agency plans to use a portion of the additional funds to establish a toll-free telephone number for the consumer complaint handling center, which was included in FTC's 1999 conference report that accompanied its appropriation. The Executive Director said the toll-free telephone number would be operational in the spring of 1999.

Some of the officials from the offices of state attorneys general who believed there would be a negative impact if the FTC offices were to close said that they valued a local FTC presence because of the information-sharing opportunities that it provided. They stated that a local FTC office afforded them the opportunity to meet with FTC staff and take advantage of their knowledge of regional issues and companies. These officials expressed concern that this relationship would be lost if, for example, FTC responsibility for New England were to be transferred from the Boston to the New York office. In addition, an official from one of the New England area offices of state attorneys general pointed out that the New York office of the DOJ Antitrust Division, which covers New England as well as New York, concentrates on what is nearer to its office. Consequently, he suspected a similar result from a New York FTC office with responsibility for New England.

Certain external stakeholders who work on antitrust matters rather than consumer protection matters expressed their support for the proposal. For example, officials from the DOJ Antitrust Division stated that FTC's proposal would not affect DOJ's operations but that FTC's competition work will likely benefit by creating the antitrust centers, as opposed to having the FTEs spread out. They emphasized the importance of having a critical mass of attorneys working on merger enforcement cases. However, the DOJ Antitrust Division officials said that most of the DOJ merger work is performed in headquarters and not in its regional offices.

The Chair of Antitrust Law at the American Bar Association expressed his personal view that the proposal will positively affect FTC's antitrust work. He told us that he had worked on merger cases that were headed by regional offices and that the regional staff in some instances did not have sufficient experience or "particularized" expertise in merger matters. He commented that the consolidation of FTC's antitrust work into three centers is sensible, in that the expertise and experience of the attorneys working in each center would likely be enhanced. He also said that he believed that three centers would be easier to manage. In addition, the American Bar Association published a report in 1989 stating that FTC may have disproportionately allocated resources to its regional offices in the past and that the Commission should have the ability to reduce the number of its regional offices to prevent an undue drain on agency resources.

Boston and Denver Regional Officials Believed Closures Would Have a Negative Impact on Both Consumer Protection and Competition Matters

Boston and Denver FTC officials said they believed the restructuring proposal would negatively affect both consumer protection and competition matters in New England and in the Rocky Mountain areas. According to these officials, with the closure of the two offices, consumers would have to rely on more distant FTC offices to address their concerns. The officials said that by not having a more closely aligned regional presence, FTC would lose its capability to (1) address regional consumer protection issues and regional characteristics, (2) partner with local law enforcement agencies on enforcement efforts, (3) network and share mutual concerns and law enforcement information with other local and regional organizations, (4) provide consumer outreach and education, and (5) monitor and investigate regional competition issues.

The Boston officials said that they believed the restructuring proposal would decrease FTC's attention to New England consumer protection cases and did not take into account differences in regional cultures. They said that they believed it is unlikely that FTC's New York regional office, even with an increase in staff, would view New England consumer protection cases as a priority, given the consumer protection workload in New York and New Jersey. They also said they believed the New England area, specifically eastern Massachusetts and southern New Hampshire, is a highly concentrated, emerging area of business and technology and that not having an FTC office in Boston would hamper efforts to protect consumers. Likewise, Denver officials told us they did not believe that Rocky Mountain residents would be likely to call Washington, D.C., San Francisco, Seattle, or Cleveland to lodge consumer complaints or to request information. They also said that they believed it would be unlikely that elderly residents in their region would feel comfortable calling someone unfamiliar with the Rocky Mountain area or that such residents would use the Internet. OED officials provided data that showed that about 50 percent of the consumers in the states covered by FTC's Boston regional office that telephoned FTC during the period January 1 through July 18, 1998, telephoned offices other than the Boston regional office; however, about 27 percent of the consumers in the states covered by FTC's Denver regional office telephoned FTC through offices other than the Denver regional office.

Officials from both regions said they believed that the restructuring proposal would reduce FTC's ability to partner effectively with local law enforcement agencies. Boston officials said that enforcement efforts, such as its recent work with one state attorney general office on compliance with its credit repair rules, could suffer under the proposed restructuring.

These officials said they did not believe that a more distant FTC region or FTC headquarters could work as effectively.

In addition, Boston and Denver officials said they believed that networking and information sharing with law enforcement agencies as well as other local organizations would be negatively affected by the restructuring proposal. For example, Boston officials said that because of transportation and logistical difficulties, they believed it is unlikely that the New York FTC office would continue holding the quarterly meetings that the Boston office has held with state attorneys general officials in the Boston region. They said the reorganization could affect the close working relationships that the Boston region has developed with state attorneys general in the region and other law enforcement and consumer protection organizations. Denver officials also said they believed that the closures would cause FTC to lose its ability to network locally. They said that these networks are invaluable in providing information on potential consumer fraud issues.

The Boston and Denver FTC officials also said they believed that consumer education and outreach efforts in their respective regions would suffer if the two regional offices were closed. They also said that officials from their regions have participated in numerous local speaking engagements and educational events and that they did not believe another region would assign staff to attend these engagements. Appendix V contains a summary of recent consumer education and outreach activities as reported by Boston and Denver regional officials.

Lastly, Boston and Denver officials stated that non-HSR merger work in their respective regions would also be negatively affected by closing the two offices. For example, Denver officials said that they review small, local mergers and investigate anticompetitive behavior, such as price fixing, and the fact that they live in the region and the community allows them to hear about and become aware of such cases. Similarly, the Boston officials stated that having a local presence allows them to become aware of anticompetitive practices in the Boston area. Further, they said that they investigate mergers of local or regional hospitals or health maintenance organizations.

FTC Headquarters Officials Believed Their Plans Would Address Stakeholders' Concerns

FTC officials said they believed they would be able to mitigate the concerns about the regional office restructuring plan cited by many of the stakeholders we contacted. In September 1998, FTC officials presented us with written implementation plans for the continuation of services for both the New England and Rocky Mountain states. These plans call for outreach to the law enforcement community; consumers, consumer organizations,

and the media; and the business community and bar associations in the states affected by the closures. Among other things, this outreach, which FTC said affirms its commitment to continuing services, is to take the form of

- news releases, speaking engagements, and media appearances;
- town meetings, meetings with federal and state agencies and industry groups, and meetings with consumer advocacy groups; and
- formal and informal meetings with officials from the offices of state attorneys general.

Under the plans, the regional offices that are slated to assume responsibility for the Boston and Denver regions—the Northeast region in New York City, the Midwest region in Chicago, the Western region with offices in San Francisco and Los Angeles, and the Northwest region in Seattle—are to hold the quarterly meetings with the offices of state attorneys general from the states under their respective jurisdictions. Although not specifically stated in the plan, FTC officials said the new Northeast Region would hold the quarterly meetings in New England rather than in New York City. In addition, these officials said they have designated the Assistant Regional Director in the current New York regional office to be the New England Coordinator for the new Northeast Region. According to the officials, this individual is to serve as a contact point for the New England states.

Despite FTC's efforts to articulate its commitment toward a continuation of services to the New England and Rocky Mountain states, it is unclear how the restructuring effort will be managed by the offices that are to take on the consumer protection responsibilities currently managed by the Boston and Denver regions. For example, we spoke with the regional directors of the New York, Chicago, San Francisco, and Seattle FTC offices under the condition that we do so in the presence of an FTC BCP headquarters official. These directors said they had not developed any formal plans to prepare for the increased consumer protection workload that would result from the acquisition of the new states. The New York and San Francisco regional directors said that this was because the regional restructuring was on hold, pending the outcome of our review.[16]

[16]According to OED officials, the Chairman asked regional directors in a June 10, 1998, memorandum to develop a transition plan to evaluate their current resources and propose ways to handle their new responsibilities. The OED officials also said the effort to develop, review, and implement these transition plans was put on hold in deference to our review.

Nonetheless, FTC Chicago, San Francisco, and Seattle regional officials said they had previously participated in conferences with offices of state attorneys general from the affected states and had developed contacts with officials in these states. In addition, officials from FTC's New York office said they plan to meet with the state attorneys general from the New England states, both to foster a working relationship and to get their assessments of important enforcement issues in New England. Their preliminary ideas for establishing a presence in the region include making themselves available to the local media, taking multiple purpose trips to New England, and subscribing to New England's prominent newspapers in order to gauge local issues and monitor advertisements for potential fraud cases.

The San Francisco regional official said his office would have to become more efficient because under FTC's restructuring plan, no additional resources are proposed for the increased consumer protection workload resulting from the new responsibilities. Under the proposed restructuring, his region would also include Colorado and Utah and provide administration and management for the responsibilities of the Los Angeles office, which covers southern California and Arizona. To compensate, he said that FTC might have to leverage resources. For example, the official stated that the San Francisco office could partner with state and local agencies and reach constituents through the consumer complaint handling center and the FTC Internet web site.

The Chicago regional official said he planned to visit each of the new states that would fall under the office's jurisdiction, which include North Dakota, South Dakota, Kansas, and Nebraska. He said that the Chicago regional office has already worked with the offices of state attorneys general in Kansas, North Dakota, and South Dakota on antitrust issues. In addition, according to this official, the Chicago region has previously collaborated with the AARP Midwest office.

An official with the Seattle regional office stated that the outreach strategy for the incoming states of Wyoming and Montana would involve a combination of travel and communication by telephone, with the type of outreach varying by state. He said the office would make an effort to develop a close relationship with the state attorneys general and consumer organizations in these states.

FTC Said It Reaches Out to Seniors and Low-Income Citizens in a Variety of Ways

One of the concerns stakeholders expressed during our review centered on FTC's reliance on recent technological innovations, such as FTC's Internet web site, a consumer complaint handling center, and a related consumer fraud database, to compensate for the potential effect of the proposed office closures. In particular, stakeholders voiced concern that individuals 65 years of age and older and low-income citizens might not be equipped to use FTC's Internet web site.

Recent studies and reports on Internet usage include information on the extent of individuals who are 65 years of age and older who use the Internet. According to a 1997 study by Baruch College-Harris Poll conducted for Business Week, about 21 percent of the individuals in the United States who are 18 years of age and older use the Internet, the World Wide Web, or both. Using the Baruch College-Harris Poll and Census population numbers, we found that, of those individuals between the ages of 18 and 50, more than 25 percent use the Internet. Our analysis of these data also showed that about 15 percent of individuals who are 50 to 64 use the Internet. However, only about 6 percent of individuals who are 65 years of age and older use the Internet, making this age group the lowest proportion of Internet users.

We were able to find only limited information on low-income individuals' use of the Internet. According to a 1997 Business Week article, adult Internet users are more affluent than the U.S. population as a whole. For example, the article stated that more than 42 percent of adult Internet users have household incomes that are greater than $50,000, compared with 33 percent of the population as a whole. The Business Week article also stated that 18 percent of individuals who access the Internet have incomes of $25,000 or less. However, it pointed out that because the lower income category probably includes many students, it may have overstated Internet participation by the nation's low-income households.

While FTC officials told us that its Internet web site has been very successful—with over one million accesses to the site over the past year—they also said FTC plans to reach out to seniors and low-income individuals in a variety of ways, many of which do not depend on any particular level of income or technological sophistication.

First, FTC officials said they expect the level of service FTC provides to all consumers to improve with the approval of fiscal year 1999 funds to establish a toll-free telephone number for its consumer complaint handling center. As of November 1998, according to FTC officials, they had already obtained a toll-free telephone number and plan to make it available to

consumers by the spring 1999. These officials said they were drafting a request for proposals for call center providers to assist in handling this work and that by January 1999, they plan to expand the physical call center space at FTC headquarters from 18 work stations to 32.

Second, FTC officials said FTC has repeatedly partnered with a wide variety of other law enforcement organizations to coordinate efforts to combat a variety of scams targeting seniors and low-income people, such as bogus prize promotions, credit repair scams, and advance fee loan frauds. According to FTC officials this coordinated approach draws media attention to the problems addressed, thereby educating the public through radio, television, and newspapers on how to protect themselves. In addition, FTC officials said FTC has partnered with organizations throughout the United States to leverage its impact in educating consumers. These officials said FTC did so under the premise that no headquarters or regional office acting alone has even a fraction of the impact that FTC can have by using other organizations to amplify its message.

Finally, FTC officials said that they have communicated consumer information materials in a variety of formats--brochures, bookmarks, flyers, radio public service announcements, posters, bumper stickers, and postcards. They added that they distribute or communicate this material broadly and, in their view, often creatively and unconventionally. For example, they said that by working with a range of organizations FTC has placed its messages in locations such as grocery stores, bookstores, and delicatessens; billing statements and community, professional, and trade association newsletters; classified advertising sections of newspapers throughout the country; as well as on the Internet.

Agency Comments and Our Evaluation

We received written comments on a draft of this report from the FTC Commissioners in a letter dated January 8, 1999 (see app. VIII). In their comments, the Commissioners clarified their position on five points related to the restructuring plan. First, the Commissioners pointed out that the regional office restructuring plan is responsive to where they and their stakeholders say markets and mergers are today and where they will be in the foreseeable future. Second, the Commissioners stated that the regional office restructuring is part of a broader FTC-wide effort to efficiently and effectively deploy limited staff resources to make FTC's operations more responsive to consumer's needs. Third, the Commissioners said that fewer regional offices will not diminish FTC's effectiveness in addressing consumer problems in any region of the country and stated that they believe the restructuring will provide FTC the opportunity to better serve

consumers through its partnerships with various law enforcement organizations throughout the country. Fourth, the Commissioners stated that the restructuring will improve FTC's ability to handle its antitrust workload. Finally, the Commissioners pointed out that, to the extent possible, the plan takes into account human costs of such changes and does not call for anyone to be terminated.

Concerning the first point, we have no basis to agree or disagree with where FTC and its stakeholders believe markets and mergers are today and will be in the foreseeable future. We do not dispute that FTC may have considered the views of a wide range of stakeholders in the context of "hearings and workshops on the emerging global high tech marketplace held at the FTC in 1995." However, as pointed out in our report, FTC did not obtain or consider the views of stakeholders that work with the Boston and Denver offices as it developed its proposal to restructure its regional offices.

Concerning the second point, in our report we characterize FTC's restructuring proposal as part of an effort FTC began in 1995 to streamline its operations, which is consistent with FTC's comments. Concerning the third point, we have no basis to judge how the proposed restructuring will affect FTC's effectiveness in addressing consumer protection problems in any region. In this report, we provide the opinions of FTC stakeholders that worked with the Boston and Denver regional offices concerning this matter, but their views varied; also there is no empirical basis on which to assess future consumer protection performance. In regard to the fourth point, we have no basis to judge the effect restructuring will have on FTC's ability to handle its antitrust workload. In regard to the final point, our report states that FTC's June 1998 restructuring proposal calls for transferring 33 staff positions from the Boston and Denver regions and allows all staff in the offices that are proposed to close to transfer to other regional offices and headquarters.

We also obtained written and oral technical comments from FTC's Executive Director and her staff. We made changes to the report on the basis of these comments as appropriate.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Chairman of the Federal Trade Commission; the Chairmen and Ranking Minority Members of the Senate and House Appropriations Subcommittees on Commerce, Justice, State, the Judiciary, and Related Agencies; the Chairman and

Ranking Minority Member of the House Commerce Subcommittee on Telecommunications, Trade and Consumer Protection; and the Chairman and Ranking Minority Member of the Senate Commerce Subcommittee on Consumer Affairs, Foreign Commerce and Tourism. We will also make copies available to other interested parties upon request.

Please contact me at (202) 512-8676 if you or your staff have questions. Major contributors to this report are listed in appendix IX.

Laurie E. Ekstrand

Laurie E. Ekstrand
Associate Director
Federal Management
and Workforce Issues

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Figures

Abbreviations

AARP	American Association of Retired Persons
BBB	Better Business Bureau
BC	Bureau of Competition
BCP	Bureau of Consumer Protection
BE	Bureau of Economics
BRO	Boston Regional Office
DOJ	Department of Justice
DRO	Denver Regional Office
EA	enforcement actions
FBI	Federal Bureau of Investigation
FTC	Federal Trade Commission
FTE	full-time equivalent
GSP	gross state product
HSR	Hart-Scott-Rodino
ICC	Internet Chamber of Commerce
IRS	Internal Revenue Service
NAAG	National Association of Attorneys General
OED	Office of Executive Director
SAFE	Seniors Against Fraud and Exploitation
SEC	Securities and Exchange Commission

Current and Proposed FTC Regional Structures

Figure I.1: Current FTC Regional Structure

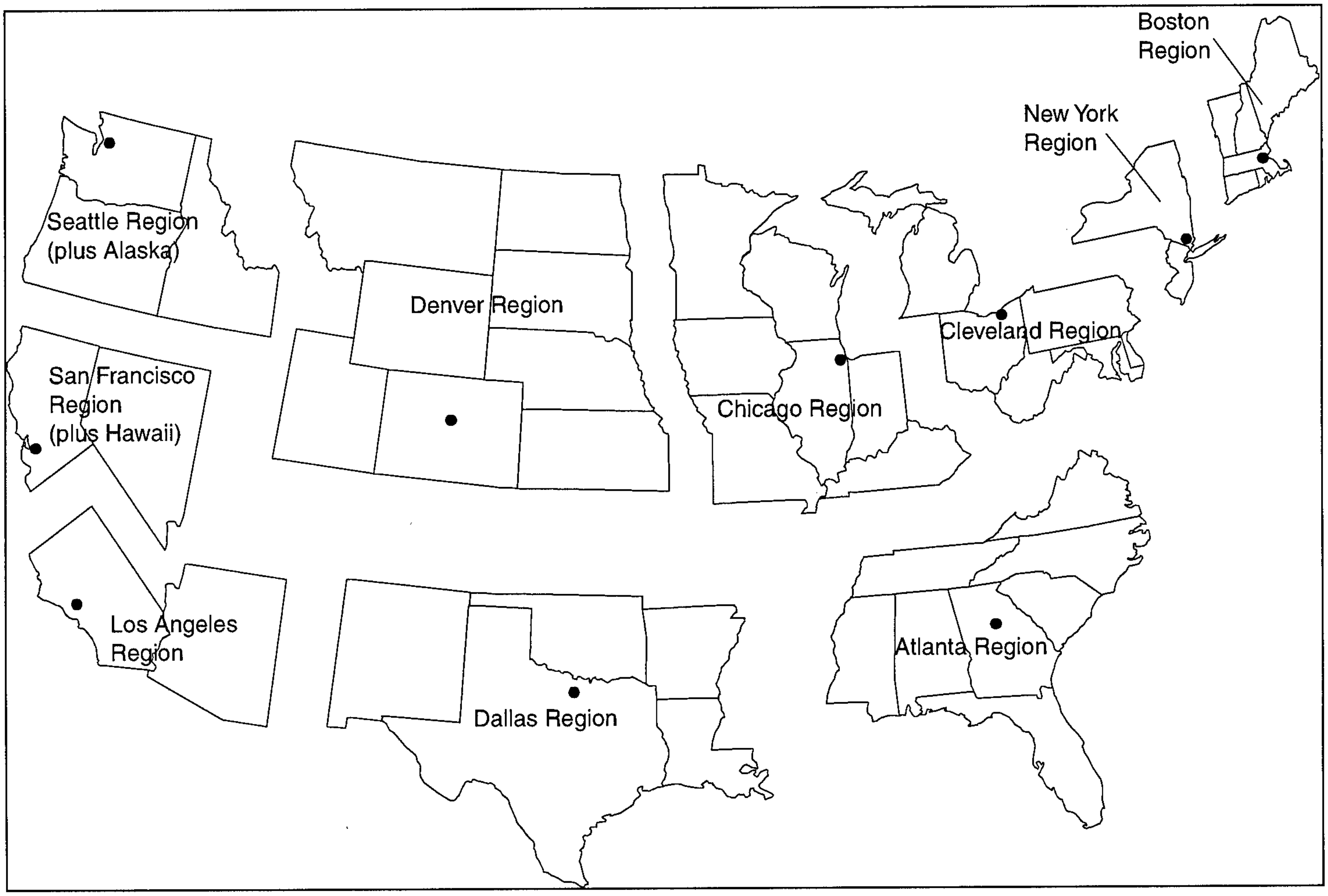
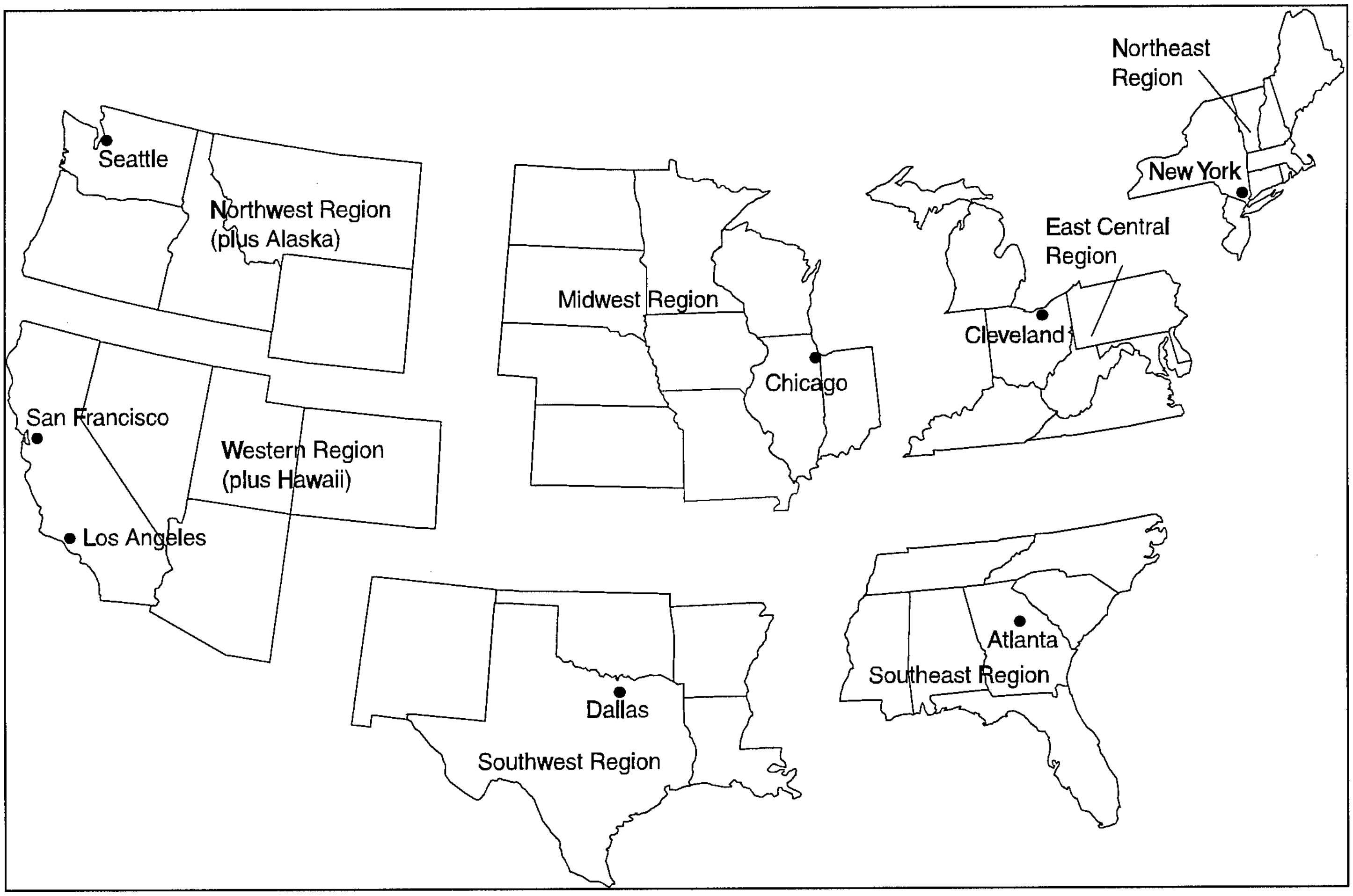


Figure I.2: Proposed FTC Regional Structure



FTC's Hart-Scott-Rodino Work

Part of the Federal Trade Commission's (FTC) rationale for its regional restructuring proposal was to address an increased workload in the Bureau of Competition (BC) as a result of FTC's responsibilities under the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976. This appendix provides information on the act's requirements and the process FTC is to follow to address this work, selected statistics on FTC's HSR merger work, and a discussion of the nature of HSR merger filings.

The HSR Act's Requirements and FTC's Process to Address HSR Act Work

The HSR Act requires that companies file a notification of certain proposed acquisitions of stock or assets to FTC and the Department of Justice's (DOJ) Antitrust Division before such transactions are completed. The parties must then wait a specified period, usually 30 days (15 days in the case of a cash tender offer) before they may complete the transaction. Whether a particular acquisition is subject to these requirements depends on the value of the acquisition and the size of the parties, as measured by their sales and assets. Certain acquisitions involving small parties and other classes of acquisitions that are less likely to raise antitrust concerns are excluded from the HSR Act's coverage.

The primary purpose of this premerger notification is to provide FTC and DOJ—the antitrust enforcement agencies—with the opportunity to review mergers and acquisitions before they occur. The premerger notification program, with its filing and waiting period requirements, provides the two agencies with the time and the information necessary to conduct this antitrust review. According to FTC officials, some information that is necessary for the two agencies to review the proposed transaction is included in the notification filed by the merging parties. These officials said that when there appears to be a competition problem with the merger, FTC staff "obtain clearance" from DOJ to conduct a more extensive review during the initial waiting period. In "obtaining clearance," the two agencies must decide which of them will review the transaction. The FTC officials also said that FTC staff contact as many customers and competitors of the merging parties as possible to obtain information and to discuss the likely impact of the merger on competition.

If either agency determines during the waiting period that further inquiry is necessary beyond the waiting period, it is authorized to request additional information or documentary materials from either or both of the parties to a reported transaction. This further inquiry is known as a "second request." A second request extends the waiting period, usually for 20 days (10 days in the case of a cash tender offer), after all parties have complied with the request. According to the BC Director, the second request process often involves hundreds of boxes of documents and computer data, and the

compressed time frame of a second request means that the investigating staff must devote considerable resources to preparing the case. FTC officials said they may need to assign extra staff to the case to ensure that all documents are reviewed within the required time frames. The additional time provided for the second request gives the agency doing the review the opportunity to analyze the information and to take appropriate action before the transaction is completed. If FTC or DOJ believes that a proposed transaction may violate the antitrust laws, it may seek an injunction in federal district court to prohibit the consummation of the transaction.

HSR Mergers Have Increased

According to FTC officials, while the number of HSR Act merger filings has increased in recent years, the number of FTC resources for competition work has remained relatively flat. The number of FTC second requests and FTC merger enforcement actions, however, have varied. Table II.1 presents the number and dollar value of HSR Act merger filings, the number of second requests, the number of FTC merger enforcement actions, and the number of competition resources FTC has dedicated to the program from fiscal year 1979 to 1998.

Table II.1: Selected HSR Merger Statistics, 1979-1998

Fiscal year[a]	Number of competition FTEs[b]	Number of HSR Act filings	Value of HSR filings (dollars in billions)[c]	Number of FTC second requests	Number of FTC merger enforcement actions[d]
1979	594	861	[e]	63	29
1980	584	784	[e]	31	16
1981	567	996	[e]	34	13
1982	507	1,203	74.0[a]	39	16
1983	445	1,093	80.6[a]	12	4
1984	421	1,340	153.3[a]	25	9
1985	408	1,603	189.6	24	13
1986	376	1,949	[e]	32	7
1987	342	2,533	577.9	18	12
1988	335	2,746	350.7	39	24
1989	304	2,883	503.5	35	19
1990	307	2,262	302.6	55	35
1991	343	1,529	168.7	33	24
1992	328	1,589	165.4	26	14
1993	324	1,846	222.3	40	21
1994	317	2,305	372.0	46	28
1995	322	2,816	508.9	58	43
1996	314	3,087	677.4	36	27
1997	312	3,702	776.6	45	27
1998	337	4,728	1,436.1	46	34

[a]According to FTC, the value of HSR filings for 1979 through 1984, are available only on a calendar-year basis.

[b]According to FTC, actual competition FTEs for fiscal years 1979 through 1990 are not available. FTC estimated competition FTEs for those years based on the average ratio (34 percent) of actual competition to actual total FTEs between fiscal years1991 and 1997.

[c]According to FTC, the dollar amounts were tallied from information submitted on the premerger notification form submitted by reporting parties. The dollar value of mergers shown in the table is for a lesser, adjusted number of transactions than are shown in the table. The adjusted transactions eliminate transactions: (1) reported under section (c)(6) and section (c)(8), involving certain regulated industries and financial businesses; (2) followed by separate notification for one or more additional transactions between the same parties during the fiscal or calendar year; (3) found to be nonreportable; (4) found to be incomplete transactions (only one party in each transaction filed a compliant notification); or (5) withdrawn before or during the initial waiting period.

[d]Merger enforcement includes preliminary injunctions authorized, consents accepted for comment, administrative complaints, and premerger filings withdrawn.

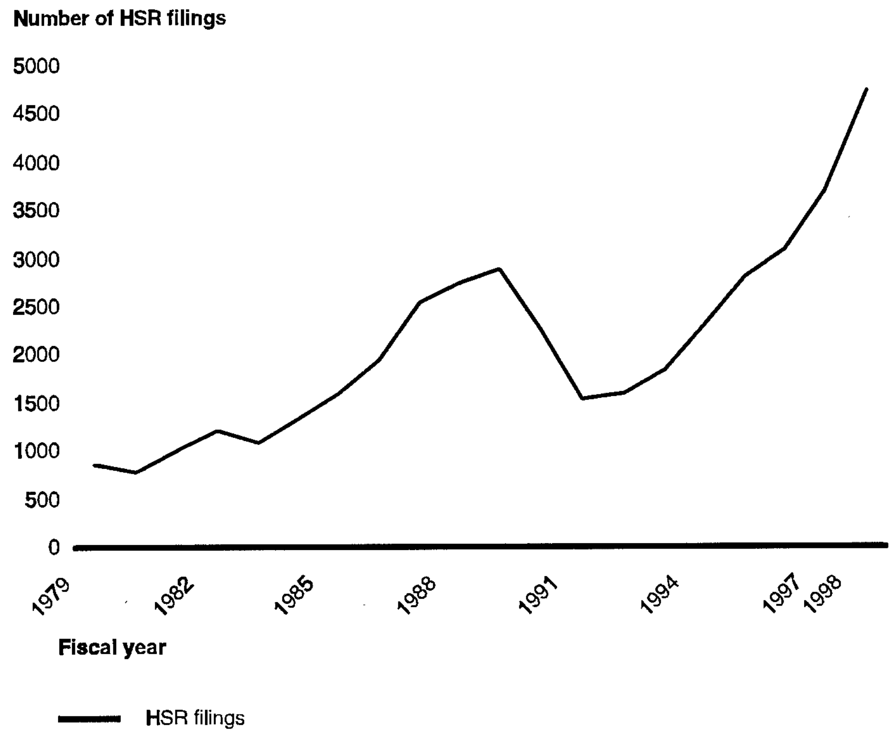
[e]According to FTC, these data are not available.

Source: Office of the Executive Director, FTC.

Merger Activity and Associated HSR Filings Occur in Unpredictable Waves

During the twentieth century, there have been several merger waves in which the number of mergers increased, reached a peak, and declined. In more recent years, since the passage of the HSR Act, the United States has experienced two waves that resulted in fluctuations in the number of HSR filings received by FTC and DOJ. During the 1980s, merger activity and associated HSR filings generally increased from the start of the decade to a peak of about 2,900 HSR filings during 1989. After declining in the early 1990s, HSR filings rose again, this time to a record level of 4,728 HSR filings in fiscal year 1998. Figure II.1 shows fluctuations in HSR filings since 1979, 3 years following passage of the HSR Act.

Figure II.1: Trend in HSR Filings, Fiscal Years 1979-1998



Source: Office of the Executive Director, FTC.

According to an FTC press release, the United States is in its largest merger wave and FTC recently reported mergers exceeding $1 trillion over the past 12 months. Although FTC expects the trend toward increased merger activity to continue, the FTC Associate Director for Special Projects in the Bureau of Economics (BE) would not predict whether merger activity and corresponding HSR filings will increase, decrease, or remain the same because merger activity is heavily influenced by unpredictable events in the economic and regulatory environment. In addition, the BE official said that the various waves of mergers have been caused by structural changes in the economy, such as technological changes in domestic and global markets.

Despite the recent increase in HSR filings, the BE official would not predict future levels of such filings because the underlying events that cause merger waves or the underlying general level of merger activity is uncertain. Academic research on previous merger waves shows that these waves have been caused by changes in the economic or regulatory

environment.[1] Unless it were possible to accurately predict future changes in either of these environments and how such changes would affect the level of merger activity, the future level of merger activity cannot be predicted, except in the most general terms. Some research has shown that merger waves tend to be self-sustaining. According to this research, a change in the economic or regulatory environment that causes a merger wave is likely to cause higher than normal merger levels for several years before tailing off. For example, the merger wave of the 1980s was sustained for several years. Merger activity has again increased, but it is difficult to predict whether such activity will continue or decline, whether or when a future decrease in HSR filings might occur, or the level to which merger activity will revert.

[1] For a further discussion, see, for example, "Waves and Persistence in Merger and Acquisition Activity," an academic working paper by John T. Barkoulas, Christopher F. Baum, and Atreya Chakraborty or "Merger Waves and the Structure of Merger and Acquisition Time-Series," by R. J. Town as published in the Journal of Applied Econometrics, 7 (1992).

FTC's Prior Analyses of Regional Restructuring

The Federal Trade Commission's (FTC) basic 10-region structure has been in place since 1978. Since that time, FTC has analyzed its regional structure twice before the current effort—once in the early 1980s and again in 1987. However, neither of these efforts resulted in any major restructuring. The following briefly discusses both of these efforts.

FTC's Analysis of a Six-Region Structure in the Early 1980s

In October 1981, FTC's Commissioners voted to consolidate FTC's 10-office regional operations into a 6-office regional configuration based on 150 total staff years. Under this plan, the Boston, Denver, Los Angeles, and Seattle offices would have been closed. The Commissioners also directed the Executive Director to analyze how FTC could manage its workload under this scenario. The Executive Director subsequently developed a study that, among other things, (1) described past and then current functions performed by regional offices and provided data on the allocation of regional resources in years prior to the analysis; (2) discussed a model for future resource use, including a discussion of the skill mix needed to carry out regional office functions in the six regions; (3) presented proposed geographic boundaries for a six-office structure based on an analysis of census data in relation to potential FTC enforcement workload; and (4) explored the potential cost savings resulting from such a change.

According to an FTC document on regional restructuring initiatives, the Commission's decision to adopt a six-office regional structure resulted in numerous discussions between FTC and Congress. According to FTC, several senators and representatives corresponded with FTC about its decision to restructure regional operations, and the Subcommittee on Commerce, Consumer, and Monetary Affairs, House Committee on Government Operations held a hearing on the subject. By February 1983, after receiving advice from its House and Senate Appropriations Committees, FTC's Commissioners decided to retain the 10-office regional structure with a total of 169 staff years.

The 1987 Resource Allocation Study

In January 1987, the FTC Chairman directed the Executive Director to undertake a study pertaining to the allocation of resources in the enforcement bureaus—the Bureau of Competition and the Bureau of Consumer Protection. The study was to focus on two areas—the distribution of resources between these bureaus and the regional offices, given the budget context, and options for regional office structure. In April 1987, the Executive Director completed the study, which, among other things, (1) provided information on FTC enforcement and related activity and presented data on FTC's budget, (2) analyzed statistics on demographic factors relative to regional operations, and (3) discussed the

views of regional and enforcement bureau directors on the major accomplishments of their organizations and articulated their perspectives on a number of management issues bearing on the organization of FTC's enforcement resources. The study did not argue for any particular outcome. Instead, it presented possible scenarios or observations for organizing FTC's regional operations.

For example, the 1987 study concluded that a minimal regional office configuration would include five regions covering the following areas of the country: the Northeast, the Mid-continent area, the West Coast, the Southeast, and the Southwest. The report stated that logical locations for these offices would be New York City, Chicago, California (either Los Angeles or San Francisco), Atlanta, and Dallas (or possibly Houston). The study also stated that an advantage of a five-office regional scenario would be that FTC could then significantly increase the resources devoted to each office, giving each about 30 workyears, while providing adequate coverage across the country. According to the study, staffing regional offices at this level would provide significant opportunities for specialization, thus increasing the effectiveness of the offices. The study also pointed out that there would be significant costs associated with a shift from 10 to 5 offices.[1] Under this scenario, several dozen employees in offices that would have been closed under the five-region structure—Boston, Cleveland, Denver, Los Angeles and Seattle—would have been affected, either by relocations or reductions in force. In addition, the five-office configuration would have nearly doubled the size of the remaining offices.

The 1987 study pointed out that FTC regional offices needed a minimum of 18 to 25 staff to do both consumer protection and competition work. The study concluded that, given FTC's budget situation at the time, FTC could retain 8 offices of approximately the same size, each containing about 18 to 20 workyears. The study recommended that FTC consolidate its 10-office structure into no more than 9 regions, with the staff years from its Denver office reallocated to other regions. It further suggested that FTC strongly consider an eight-office regional configuration whereby staff years from Denver and Seattle would be reallocated among the remaining regional offices. However, FTC decided to retain all 10 of its regional offices but closed its only remaining field station, which was located in Honolulu and staffed with 1 person.

[1] The report noted that closing five regional offices could also produce annual nonpersonnel cost savings of as much as $875,000. However, the report also notes that this figure is probably overstated because it does not consider the likely need for additional office space in the remaining regional offices to accommodate higher staffing levels.

Objectives, Scope, and Methodology

The objectives of this report are to provide information on (1) the Federal Trade Commission's (FTC) rationale for proposing the regional restructuring, (2) the process FTC followed in developing its restructuring proposal, (3) factors FTC used and could have used in deciding how to restructure, (4) other options to the proposed restructuring identified in prior FTC studies or by Boston and Denver regional officials, and (5) the views of selected stakeholders regarding the impact the proposed restructuring could have in the areas covered by the Boston and Denver regional offices. On September 18, 1998, we briefed your offices on the results of our work. On October 2, 1998, you requested that we provide additional information. We agreed to provide additional information and to summarize the results of all of our work on FTC restructuring in this report.

In general, to meet our objectives, we obtained and reviewed FTC statutes relating to its authority, FTC reports, FTC internal correspondence, and congressional appropriations hearings for FTC; the proposed regional restructuring plan and supporting FTC data and analyses; and documentation related to FTC's mission, goals, and objectives. We interviewed officials in FTC's Office of the Executive Director (OED), Bureau of Consumer Protection (BCP), Bureau of Competition (BC), and Bureau of Economics (BE) and the Boston and Denver regional offices. We also interviewed officials at the regions which FTC proposed to take over the responsibilities of the Boston and Denver regions. However, the Executive Director allowed us to interview officials from these regions—Chicago, New York, San Francisco, and Seattle—only in the presence of a BCP headquarters official. In addition, we interviewed external stakeholders in selected federal, state, and local organizations that work with the Boston and Denver regions and, at the request of OED officials, selected organizations that work with FTC headquarters offices.

To obtain information on the rationale FTC used for initiating a project for restructuring its regional operations, we obtained and reviewed the regional restructuring proposal and supporting FTC data and documentation related to FTC's mission, goals, and objectives. We interviewed OED, BCP, BC, and BE officials to obtain their views on the rationale for developing the proposal and on the issue of productivity of FTC headquarters and regional offices. In addition, we obtained and reviewed data on the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976 and merger filings under the act. We also interviewed FTC Boston and Denver regional officials to obtain their views on FTC's rationale for the restructuring proposal and on the issue of productivity of FTC headquarters and regional offices.

To provide information on the process that FTC followed in developing its May 1998 proposal, we interviewed officials in OED, BCP, and BC and in the Boston and Denver regional offices. We also collected and examined pertinent documents provided by these officials.

To provide information on the factors that FTC used in deciding how to restructure, we interviewed OED, BCP, and BC officials and obtained and reviewed supporting FTC data. To identify other factors that FTC could have used in deciding how to restructure, we reviewed prior FTC restructuring efforts and interviewed Boston and Denver regional officials. To provide information on using productivity as a factor in determining how to restructure and on the difficulties in measuring and comparing consumer education, outreach, and enforcement activities, we (1) interviewed OED and Boston and Denver regional officials; (2) reviewed prior FTC restructuring efforts; (3) gathered data on the number of consumer protection enforcement actions and competition cases worked on by headquarters and regional offices, for fiscal years 1993 through 1998; and (4) gathered data on recent consumer education and outreach activities in which the Boston and Denver regional officials said they had participated.

To provide information on other options that FTC might have used in lieu of the proposed restructuring, we obtained and reviewed prior FTC regional restructuring documents, interviewed officials in Boston and Denver regional offices, and reviewed documents they provided us. In addition, we asked OED, BCP, and BC officials why they did not select these other options for their restructuring proposal, and we obtained and reviewed any documentation related to FTC's consideration of these other options. We also gathered information from OED on FTC's past use of its funded full-time equivalent (FTE) positions and on FTC's recent requests for additional funding. In addition, we interviewed the Director on how FTC would use possible future increases in FTEs and whether or not an increase in funding or FTEs would change FTC's proposal to restructure its regional operations.

To provide information on the impact that stakeholders said the proposed restructuring could have on consumer protection and competition matters, we interviewed officials from selected organizations that work with the Boston and Denver regional offices. We contacted representatives of the Boston and Denver chapters of the Better Business Bureaus (BBB); the Northeast, Southwest, Midwest, and West regions of the American Association of Retired Persons (AARP); the Boston and Denver offices of the Federal Bureau of Investigation (FBI); and offices of the state

attorneys general for which the Boston and Denver regions cover. We selected the BBB and AARP offices because officials from both the Boston and Denver regional offices said they work with these organizations and because these organizations are widely recognized consumer protection groups that cover consumers in both Boston and Denver regions. We interviewed officials from the FBI because officials in both Boston and Denver regions said they work with this agency. We selected the offices of the state attorneys general because of your offices' particular interest that we interview these officials. At the request of FTC's Executive Director, we also interviewed officials from the Department of Justice's Antitrust Division, the National Association of Attorneys General, the Council of Better Business Bureaus, and the American Bar Association Antitrust Law Section.

We also interviewed officials in FTC's Boston and Denver regional offices to obtain their views on the impact that the restructuring proposal could have on consumer protection and competition. To obtain information on plans FTC might have in addressing concerns raised by stakeholders, we interviewed officials in OED, BCP, and BC in FTC headquarters and officials in the Chicago, New York, San Francisco, and Seattle regional offices. We specifically questioned FTC headquarters officials about how greater reliance on recent technological changes at FTC would impact senior and low-income citizens. We also gathered available statistics on the demographics of Internet usage by senior and low-income citizens.

We did not draw any conclusions about whether FTC's proposal was necessary and appropriate or based in sound management because of the lack of established criteria regarding federal office restructuring.[1] We were not able to project the likelihood that the number of HSR mergers would continue to increase in the future. We did not verify information, including budget information, provided by FTC officials or information provided by representatives of other organizations we contacted regarding FTC's proposal. Because of limited time and as agreed with your offices, we did not contact all organizations with which the FTC Boston and Denver regions partner. We did not conclude whether FTC's restructuring proposal was likely to improve or maintain the level of FTC services in the New England and Rocky Mountain areas or whether the implementation plans that FTC has developed will address the concerns of the state attorneys general.

[1] Facilities Location Policy: GSA Should Propose a More Consistent and Businesslike Approach (GAO/GGD-90-109, Sept. 28, 1990).

We conducted our work in Washington, D.C., Boston, Denver, and Dallas between June 1998 and January 1999, in accordance with generally accepted government auditing standards.

Productivity and Workload of FTC Regions and Headquarters

While considering regional restructuring in 1987, the Federal Trade Commission (FTC) conducted a study, which, among other things, addressed the issue of regional and headquarters productivity. The 1987 study compared regions and headquarters by examining productivity or workload measures, such as the number of administrative complaints, consent orders, final litigated orders, court actions, and initial and full phase investigations. The study stated that any attempt to compare the workload data of bureaus and regional offices is compromised by a number of measurement difficulties. The study stated that depending on how adjustments were made to staff years to account for, among other things, complexity of cases and consumer impact, one could either conclude that the regional offices were more productive than headquarters or that headquarters was more productive than the regions. The study did not conclude which—the regions or headquarters—was more productive. Rather, the study stated that both headquarters and the regions contribute significantly to FTC's accomplishments and any observed differences in the workloads of the different organizations were not, of themselves, sufficient to compel a reallocation of resources.

During our review, FTC headquarters officials told us that because of the difficulties in measuring productivity, such as those discussed earlier, and because of the impact it could have on morale, they chose not to use productivity in deciding how to restructure operations. However, Boston and Denver regional officials said they believe that productivity should have been used in determining how to restructure operations. They also said that the regions have been productive with regard to consumer protection enforcement, competition activities, and consumer education and outreach activities, and they provided data supporting their views.

We did not verify information provided by FTC headquarters or regional officials.

Boston and Denver Officials Believe Regions Are More Productive Than BCP in Filing Enforcement Actions

Boston and Denver regional officials said that regions are more productive than BCP headquarters offices in filing enforcement actions. Data provided by Boston regional officials showed that although regions only accounted for slightly more than one-third of FTC's consumer protection full-time equivalent (FTE) positions in fiscal years 1997 and 1998,[1] regions handled 68 percent of the preliminary injunctions and 48 percent of the administrative actions. Table V.1 shows the data provided by Boston regional officials on the number and percentage of enforcement actions taken by regions and headquarters between January 1997 and June 1998 and the percentage of consumer protection FTEs used, respectively, for fiscal years 1997 and 1998.

Table V.1: FTC Consumer Protection Enforcement Actions Taken and Percentage of Consumer Protection FTEs Used by Regions and Headquarters, January 1997-June 1998

	Consumer protection enforcement actions[a]						Percentage of consumer protection FTEs by fiscal year	
	Injunctive actions		Administrative actions		Total			
Office	Number	Percent	Number	Percent	Number	Percent	1997[b]	1998[c]
Regions	69.5	68.0	40	48.0	109.5	59.0	35.9	34.4
Headquarters	32.5	32.0	44	52.0	76.5	41.0	64.1	65.6
Total	**102**	**100.0**	**84**	**100.0**	**186**	**100.0**	**100.0**	**100.0**

Note: Headquarters FTEs include all BCP FTEs.

[a]Enforcement actions include injunctive actions filed in federal district court and administrative actions filed in FTC.

[b]Includes data for the last 9 months of fiscal year 1997.

[c]Includes data for the first 9 months of fiscal year 1998.

Source: FTC Boston regional officials' analysis of FTC's Litigation Guide and FTC press releases.

The OED officials stated that enforcement data were not a good measure of productivity of headquarters and regional offices because breaking down regional and headquarters accomplishments in this manner does not reflect the fact that much of FTC's consumer protection work is collaborative. However, if enforcement data were to be used, the Executive Director said that using such data for a longer period of time would be more appropriate than using the Boston data, which were for a shorter period of time. Table V.2 presents information that we calculated based on data provided by OED on enforcement actions taken and consumer protection FTEs used by regions and headquarters for fiscal years 1993 through 1998. The data indicated, for example, that in fiscal

[1] An FTE generally consists of one or more employed individuals who collectively complete 2,080 work hours in a given year. Therefore, either one full-time employee or two half-time employees equal one FTE.

year 1995, FTC's regions had about 40 percent of the consumer protection FTEs and took about 33 percent of the enforcement actions. In contrast, during fiscal year 1998, FTC's regions had about 39 percent of the FTEs and took about 62 percent of the consumer protection enforcement actions.

Table V.2: Percentage of Enforcement Actions (EA) Taken and Consumer Protection FTEs Used by FTC Regions and Headquarters, Fiscal Years 1993-1998

	1993		1994		1995		1996		1997		1998	
	EA[a]	FTEs	EA	FTEs	EA	FTEs	EA	FTEs	EA	FTEs	EA	FTEs
Regions	42.6	42.0	49.2	42.5	32.9	40.1	42.6	43.1	46.4	40.7	62.2	38.6
Headquarters	57.4	58.0	50.8	57.5	67.1	59.9	57.4	56.9	53.6	59.3	37.8	61.4

Note: OED officials said that headquarters FTEs in this table include only those FTEs in BCP's litigating divisions. They said that BCP also has a director's office, a consumer and business education office and a consumer response center and that the FTEs for these offices are not included in this table. Although the data in this table exclude FTEs for consumer complaint handling and consumer education and outreach activities from the headquarters numbers, according to Boston regional officials, the data include FTEs for these activities in the regional numbers. The Boston officials said that the data in this table are "internally inconsistent." We were unable to resolve the disagreement between FTC headquarters and regions on which FTEs should be included in comparing regions and headquarters.

[a]Enforcement actions include permanent and preliminary injunctions in federal district court, civil penalties, and administrative actions.

Source: GAO analysis based on data provided by OED, FTC.

OED and BCP officials said that it is not appropriate to conclude that regions are more productive than headquarters on the basis of numbers of enforcement actions and percentages of FTEs, as shown in the above tables. They said that these numbers do not reflect other activities performed by BCP headquarters staff, which are not related to enforcement. According to these officials, BCP staff devote time to activities such as preparing testimonies and special reports to Congress, developing a consumer fraud database, drafting rules, and managing the review of FTC guides and rules. Boston officials said that regions have also participated in some of these activities.

Boston Regional Officials Said They Believe Regions Have Contributed to FTC's Competition Work

Boston regional officials also stressed the regional contribution to carrying out FTC's competition mission. Boston regional officials stated that Boston staff recently negotiated a consent agreement on an HSR merger case—1 of only 19 cases in which a consent agreement was obtained since July 1997. Boston officials also stressed the contribution of other regional offices in litigating merger cases for FTC, including the Denver regional office, which has litigated one merger case and assisted another region in litigating one case. Further, Boston officials said that regional offices

generate their own nonmerger cases and essentially review all healthcare mergers within their regions.

BC officials acknowledged that regional offices are productive and contribute to FTC's competition mission. They said, however, that FTC needs to ensure that all of its resources, both in the field and headquarters, are positioned to be capable of conducting the nature and type of litigation associated with fast-paced large merger cases at all times. Concerning a large case that Boston settled last year, an FTC headquarters official stated that while the regional staff did a good job on the case, the case was atypical. The official stated that the regional staff did not have to invest the resources or meet the same time pressures associated with many merger cases. For example, the companies seeking to merge did not require FTC to comply with the statutory time frames under the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976; and as a result, according to this headquarters official, the region was able, with a few staff, to handle the case.[2] The headquarters official also said FTC is not able to predict how cooperative parties involved in a merger will be or if the parties will remain cooperative as an investigation proceeds. As a result, the official said FTC is not able to consistently assign these types of cases to regions. According to Boston regional officials, however, few merging companies require FTC to strictly adhere to the tight time frames established by the HSR Act. BC officials said they did not have data on how often companies waive the statutory time requirements but that this was not the usual situation.

OED officials provided data showing that the number of competition cases handled by regions and BC headquarters has varied widely by the type of case—HSR merger, non-HSR merger, or nonmerger—and by year. Tables V.3 and V.4 show the number of competition cases handled by the regions and headquarters for fiscal years 1993 through 1998 and the percentage of competition FTEs used, respectively.

[2] Under the HSR Act, in general, parties involved in mergers or acquisitions covered by the act must file their proposal with FTC and the Antitrust Division of the Department of Justice (DOJ) prior to consummating the transaction. The two agencies generally have up to 30 days to request additional information from either or both parties. This request extends the waiting period for a specified period of time, generally 20 days, and allows FTC or DOJ to determine whether it will challenge the merger.

Table V.3: Number of FTC Competition Cases Handled by Regions and Headquarters, Fiscal Years 1993-1998

	1993	1994	1995	1996	1997	1998
Accomplishments						
HSR mergers						
Clearances granted						
Regions	10	26	30	17	28	60
Headquarters	221	187	224	229	195	202
Second requests						
Regions	3	6	12	3	5	11
Headquarters	37	40	46	33	40	35
Consent agreements						
Regions	0	0	1	2	0	2
Headquarters	6	13	26	17	13	17
Non-HSR mergers						
Clearances granted						
Regions	24	15	20	21	26	25
Headquarters	42	67	56	63	50	57
Investigations opened						
Regions	11	3	8	7	15	25
Headquarters	8	6	12	6	9	55
Consent agreements						
Regions	1	0	1	1	0	0
Headquarters	2	2	2	0	4	4
Nonmergers						
Initial phase investigations						
Regions	43	42	23	26	18	20
Headquarters	35	35	35	23	18	23
Consent agreements						
Regions	5	3	6	3	0	3
Headquarters	4	8	5	3	3	8

Note: According to FTC headquarters officials, for the past several years, BC has allocated approximately 75 percent of the competition resources to merger work and 25 percent to nonmerger work. Of the 75 percent in the merger category, FTC officials estimated that less than 5 percent of the resources have gone to non-HSR mergers, while over 70 percent have gone to HSR mergers.

Source: OED, FTC.

Table V.4: Percentage of Competition FTEs Used by Regions and Headquarters, Fiscal Years 1993-1998

Office	1993	1994	1995	1996	1997	1998
Regions	13.5	13.2	16.2	12.8	10.8	12.7
Headquarters	86.5	86.8	83.8	87.2	89.2	87.3

Source: GAO analysis based on data provided by OED, FTC.

As shown in table V.4, in fiscal year 1996, regions accounted for about 13 percent of the competition FTEs while headquarters accounted for about 87 percent. During this same year, as shown in table V.3, regions were responsible for 3 HSR merger second requests, while headquarters was

responsible for 33; regions obtained 2 HSR merger consent agreements and headquarters obtained 17. In fiscal year 1997, regions accounted for about 11 percent of the FTEs, while headquarters accounted for about 89 percent. During this year, regions were responsible for 5 HSR merger second requests and headquarters was responsible for 40; regions obtained no HSR consent agreements and headquarters obtained 13.

Concerning nonmerger work, in fiscal year 1996, regions were responsible for 26 of the initial phase investigations and headquarters was responsible for 23; regions obtained 3 consent agreements and headquarters obtained 3. In fiscal year 1997, regions and headquarters were each responsible for 18 initial phase investigations; regions obtained no consent agreements and headquarters obtained 3.

Boston and Denver Regional Officials Believe They Have Made Significant Contributions to Consumer Education and Outreach

Boston and Denver regional staff said they believe that they have also made significant contributions to FTC's mission through other activities, such as providing consumer education and outreach and working with consumer groups and law enforcement officials. The Boston and Denver staff provided descriptive information about many of these activities over the last few years. FTC headquarters officials recognized that Boston and Denver officials have performed numerous education and outreach activities, but they said that these types of activities are also carried out by other regions and headquarters staff. They further stated that many of these activities are initiated by headquarters and implemented by regional staff.

The following sections summarize the information Boston and Denver staff provided about their consumer education and outreach activities.

Boston Regional Office Outreach and Partnership Activities

According to Boston Regional Office (BRO) staff, BRO engages in outreach and partnership activities on a daily basis by counseling consumers and handling complaints and by conducting informal exchanges with consumer groups and law enforcement officials. Although BRO staff stated that not all of these activities lend themselves to quantification, they also stated that they believe that historically, BRO has been one of the stronger regional offices in outreach activity. For example, they noted that statistics compiled in 1996 showed that in that year, BRO spent (1) three times as many hours on consumer education as the average FTC regional office, (2) almost twice the average on industry education, and (3) two and one-half times the average on working with state and local governments. The following are examples BRO staff provided on the types of consumer and industry outreach and law enforcement partnership performed by BRO over the past few years.

Ongoing Consumer Protection Partnerships With Federal, State, and Local Organizations

BRO staff stated that they participate in numerous, ongoing consumer protection partnerships with other organizations. For example, BRO has hosted quarterly "common ground" meetings with the consumer protection staffs of the New England state attorneys general offices. In addition, BRO staff stated that they initiated a series of individual meetings with each of the New England states' consumer protection and antitrust officials. Another example of BRO's outreach activity in the consumer protection area is a series of three conferences that were held to discuss telemarketing fraud issues and to train state, local, and federal officials on enforcement of the telemarketing sales rule. BRO staff stated they also participate in numerous other activities with federal, state, and local organizations, including

- the Connecticut Telemarketing Task Force,
- the Federal Reserve Bank of Boston's annual consumer information conferences,
- meetings with other New England consumer protection authorities and groups,
- the Connecticut AIDS Health Fraud Task Force, and
- numerous interviews with local television and radio stations and print media.

General Outreach and Partnerships

BRO staff stated that they conduct general outreach and partnership activities on Internet issues, subjects of interest to students and older Americans, and fraud awareness in general, as discussed below.

BRO staff indicated that they conduct numerous outreach and partnership activities regarding the Internet. For example, BRO gave a presentation on "New Issues in Internet Marketing and Advertising" at the Internet Commerce Exposition in Boston, a national conference showcasing state-of-the-art Internet products. BRO also gave a presentation on FTC Internet enforcement activities at a training session for the Boston Federal Bureau of Investigation (FBI) office's Fraud Against Government/Computer Squad. In addition, BRO staff stated they hold training conferences on use of the Internet as an investigative tool, including one for attorneys and investigators from state attorneys general offices. BRO has also partnered with Internal Revenue Service (IRS) officials to train and assist their New England criminal division in use of the Internet.

BRO staff stated that they provided consumer education materials to area colleges, particularly on the topic of consumer credit, which has become a great concern in light of the problems that have arisen from credit card companies heavily marketing to college students. For example, BRO

officials stated they visited local colleges during orientation week to distribute brochures and answer students' questions. BRO also partnered with the New England Board of Higher Education to provide copies of a new consumer alert brochure on travel fraud aimed at college students to over 250 colleges and universities in New England. BRO staff indicated they also worked with several New England state education officials to distribute "The Real Deal," a consumer education brochure designed for school children.

In conjunction with the FBI and the Massachusetts attorney general's office, BRO staff stated they participated in the training of American Association of Retired Persons (AARP) local "Fraud Fighters," volunteers who organize local seminars for senior citizens on how to avoid telemarketing scams. They also noted that they participated in other programs educating older Americans on telemarketing fraud, credit laws, and other FTC topics. For example, BRO participated in Senior Fraud Awareness Day in Springfield, Massachusetts, and a State Conference on Aging, sponsored by the Massachusetts Association of Councils on Aging and Senior Center Directors.

BRO staff indicated they conduct numerous other outreach and partnership activities, including giving speeches and presentations before conferences and association meetings. For example, they participated in a conference in New Hampshire by giving a presentation on telemarketing fraud that was attended by representatives of New England sheriff's offices, police departments, state attorneys general offices, Elder Services agencies, AARP, and the Department of Justice (DOJ). They also sponsored a Media Screening Workshop, cosponsored with the New England Newspaper Association, to educate and train 50 classified ad managers and advertising directors from newspapers throughout New England on how to recognize deceptive and fraudulent advertisements.

BRO staff stated that, together with FTC's Division of Marketing Practices, they participated in the National Association of Attorneys General (NAAG)/FTC/Quebec provincial government meeting in Quebec City on cross-border telemarketing fraud. BRO staff noted they also researched and wrote conference materials on the enforcement of foreign judgments in Canada and the United States for a cross-border fraud conference and participated in a NAAG meeting with Canadian officials on possible joint civil and criminal enforcement actions. BRO staff indicated that they have been active participants in the NAAG Task Force Subcommittee focusing on civil issues and are working with the New England state attorneys general to identify potential cross-border fraud targets. In addition, BRO

staff stated they are working with the FBI's Boston office to identify local victims of Canadian telemarketers.

Joint Investigations and Law Enforcement Actions

BRO staff stated they conduct joint investigations and law enforcement actions with other law enforcement agencies. For example, as part of a nationwide federal/state law enforcement effort against fraud and deception in the credit repair industry, BRO and the Massachusetts attorney general's office filed four cases in federal district court in Boston and obtained settlements in all four cases. Another example is "Operation Yankee Trader," in which BRO staff stated that they coordinated a sweep with other law enforcement agencies of fraudulent vending machine business opportunities in New England. BRO staff stated they filed complaints against three corporate defendants and two individuals in New Hampshire. The FBI and U.S. Attorney have begun bringing criminal indictments against those defendants and other targets identified by BRO. The states of Connecticut, Maine, and New Hampshire issued seven warning letters, under their business registration statutes, against other targets.

BRO staff noted that they have worked with other law enforcement agencies targeting illegal industry practices. For example, in its "Funeral Rule Sweep," BRO and the Massachusetts attorney general's office jointly investigated 40 funeral homes and negotiated settlements with 10 of the funeral homes under the Funeral Rule Offenders Program. BRO staff also stated that they conducted joint investigations with Maine on funeral home acquisitions in that state. In addition, BRO conducted joint hospital merger investigations with the state attorneys general offices in Massachusetts and Maine.

Denver Regional Office Consumer Education and Outreach Activities

FTC's Denver Regional Office (DRO) staff stated they emphasize consumer education and outreach as a core mission. They also said that they believe that expending resources on consumer education produces a threefold benefit. First, it provides essential information that enables consumers to make prudent buying decisions and protect themselves from making bad investment decisions. Second, by forearming consumers who could be potential victims in fraudulent schemes, it increases the amount of capital for investment in legitimate businesses, thus adding to the productive capacity of the country, rather than draining capital into the coffers of unproductive, illegitimate enterprises. And finally, informed consumers are less likely to become victims, thus reducing the number of law enforcement actions (a much more resource-intensive activity than consumer education) that must be taken to protect consumers.

Consumer Education Focused Toward Senior Citizens

DRO staff stated that they are particularly active in conducting consumer education projects directed toward senior citizens who frequently are targets of "quick-buck" artists and telemarketing scams. FTC cited DRO for its efforts in educating the elderly about the danger of all types of fraud in its most recent report for 1995 to1996 to the U.S. Congress. The report points out that DRO teamed with the Colorado attorney general, AARP, the Denver District Attorney, the Better Business Bureau (BBB), and other federal, state, and local agencies to sponsor a conference for senior citizens under a coalition named Seniors Against Fraud and Exploitation. DRO stated that it was actively involved in planning this event, which was attended by 1,300 senior citizens. For the second annual conference in 1997, DRO indicated that it sponsored the event, staffed a booth at the conference, passed out hundreds of brochures, and was featured on a television newscast covering the event. DRO noted that it also assisted in drafting a brochure for area senior citizens warning them about the various types of scams targeting them and listing public and private agency contacts to assist them. In addition, DRO indicated that it hosted a meeting of coalition members, where several DRO staff members briefed coalition members on the FTC's outreach and law enforcement activities.

Educating Business in Antitrust Issues

DRO staff stated they have also been in the forefront of educating the business community and private antitrust bar on antitrust matters. For example, they said that DRO sponsored a health care antitrust conference attended by over 125 members of the Colorado health care business community and antitrust bar, which served as a model for other regional offices, and has spoken to numerous business groups on substantive antitrust issues. They also indicated that they have maintained active liaisons with the staff of the Antitrust Division of the Colorado attorney general's office to foster cooperative strategies in maintaining competition in the marketplace.

DRO staff said that Internet issues have become an active area for DRO outreach efforts. The staff said that Denver is the location of the nation's only Internet Chamber of Commerce (ICC).[3] DRO spoke at one of the ICC's bimonthly meetings as well as at an Internet conference sponsored by the ICC, BBB, and Rocky Mountain Internet Users Group. In addition, DRO staff stated they helped plan an Internet "Summit on Ethical Electronic Commerce" held in Denver to examine electronic commerce and standards necessary to stimulate and protect online purchases. FTC, through DRO,

[3] According to DRO staff, ICC is an association of businesses interested in applying Internet applications to their organizations for increased efficiency, greater profitability, or competitive advantage. The Chamber's main activities are education (through bimonthly meetings, seminars, and publications) and networking opportunities. It has about 400 member businesses.

served as the public sector cosponsor of this collaborative effort among public, private, and nonprofit sectors and took the lead on determining the appropriate content and format for the summit. DRO staff indicated that they are preparing instructional materials based on the summit to serve as a model for similar summits in the rest of the country. In addition, DRO stated that it provided 600 FTC brochures on Internet-related topics to AARP to be distributed to AARP members enrolled in Microsoft Internet training, and it is developing content on Internet issues to be included in future Microsoft/AARP classes, each of which draws 100 to 200 people. DRO noted that this is another program being considered as a model for other parts of the country.

Consumer Outreach Through the Media

DRO staff stated that they actively participate in the consumer "help center" call-in nights of the local CBS and NBC TV affiliates. On such nights, DRO staff select a consumer topic; a local TV personality discusses it during commercial breaks; and DRO staff handle telephone calls from consumers related to that topic. They noted that this is a new development for the NBC affiliate and a direct result of DRO efforts and encouragement. Past topics have included pyramid schemes, holiday shopping tips, telemarketing, credit repair, debt collection, and credit reporting. On numerous occasions, DRO staff stated they have also appeared on a Boulder, Colorado, public radio station for a consumer call-in show where consumers can have their consumer protection questions answered on the air. DRO's acting regional director frequently participates in a radio program broadcast from Fargo, North Dakota, that focuses on a range of consumer issues. Most recently, she discussed the "dirty dozen" scams perpetrated on the Internet. To provide further assistance to consumers, DRO staff indicated they have participated in several "ask a lawyer nights" sponsored by the Boulder, Colorado Bar Association, to answer questions about federal consumer protection laws. In addition, DRO staff stated they have provided information to organizations such as (1) the Colorado Coalition for Elder Rights and Adult Protection; (2) the Guardian Coalition (Denver area court-appointed guardians for incompetent adults); (3) an AARP Spanish-speaking fraud group; (4) the Denver chapter of the National Association of Credit Managers; (5) the Combined Federal Campaign, Colorado State University; and (6) members of the dietary supplement industry.

Telemarketing Task Force

DRO staff stated they were instrumental in the formation of a telemarketing fraud task force in Denver. The group is comprised of representatives of the FTC, U.S. Attorney's Office, FBI, Postal Inspection Service, the Securities and Exchange Commission (SEC), IRS, Colorado attorney general's office, Colorado Division of Securities, Denver District

Attorney's Office, and other local district attorneys and police departments. The group meets quarterly to exchange ideas, discuss current cases, and explore cooperative strategies.

Congressional Workshop

In cooperation with four other agencies, DRO staff indicated that they organized and conducted a multiagency workshop for Congressional staff from 10 states (Denver's 8-state region, plus Oklahoma and New Mexico). Representatives from 59 different agencies or divisions of departments, including the FTC, made presentations and staffed booths at the 2-day event.

Sweep Coordination With States

DRO staff indicated they have regular, extensive contact with staff of 27 states through their coordination of the "Operation Show Time" law enforcement sweeps. States participate in regular conference calls with DRO staff. "Project House Call" also involved extensive contact with the staff of law enforcement agencies in Arizona, Florida, California, New Jersey, Colorado, and Utah. Finally, as part of FTC's Bureau of Consumer Protection efforts to enforce FTC's funeral rule, the DRO staff stated they have conducted three funeral rule enforcement sweeps in Colorado. DRO attorneys and investigators trained staff from the Colorado attorney general's office who then assisted with the undercover test-shopping of funeral homes in selected locales. DRO staff stated that Denver's fourth sweep was conducted in another state in the region in cooperation with that state's attorney general's office.

Consumer Investigators' Activities

DRO stated that its investigators attend meetings of the local Consumer Investigators Group, which draws investigators from approximately 60 agencies to discuss cases and emerging issues in law enforcement. DRO staff also indicated that staff attend "Mountain Time Zone" meetings of the North American Securities Administration Association where securities and other investment fraud issues are discussed.

Other Possible Restructuring Options

Our review of the Federal Trade Commission's (FTC) 1987 resource allocation study and discussions with Boston and Denver regional officials identified 10 possible options FTC could have used in developing its June 1998 restructuring proposal. The following sections discuss the 10 options and FTC headquarters officials' comments about each.

Option 1 - Transfer All Competition Work to Headquarters

Denver regional officials suggested that FTC could have considered designating the 10 regions as FTC's primary consumer outreach and fraud litigation units and moving all competition work to headquarters. They stated that such a proposal would cause minimal disruption because it would shift responsibilities for competition work at only one location—headquarters—where most of the competition resources are currently allocated. According to Denver officials, this option would enable regions to focus more on consumer fraud litigation and consumer outreach activities, allow FTC to continue its 10-region structure, and avert the need for a 2-office Western region managed by 1 director.

FTC's Executive Director told us that FTC considered this option but rejected it because FTC wanted to maintain an antitrust presence in its field operations. Headquarters officials said that some areas of the country are central to merger activity, and it would appear reasonable to have an FTC presence in those locations. Headquarters officials cited San Francisco as one area containing a large number of high-technology companies with numerous mergers occurring among those companies. Office of the Executive Director (OED) officials also said that it would be more disruptive to move the approximately five competition resources currently allocated to each region into Bureau of Competition (BC) headquarters operations, as opposed to relocating staff from the two regions.

Option 2 - Shift Staff From BCP to BC

Boston regional officials suggested that FTC could have considered temporarily reassigning headquarters staff from its Bureau of Consumer Protection (BCP) to BC. They said that the reassigned staff could assist BC in meeting its increased merger workload and that when the merger load diminished, FTC could return the staff to BCP.

FTC's Executive Director said that this option was not seriously considered because FTC views the missions of BCP and BC as equally important. FTC decided that it needed to maintain the mix of resources currently allocated to each bureau but that the resources needed to be used more efficiently. According to OED officials, from an overall agencywide perspective, FTC historically has divided its resources equally between its two missions.

Option 3 - Request Increased Funding to Address the Increased Workload

Boston and Denver regional officials also suggested that FTC could have requested increased funding to handle the increased workload. These officials said that they believed this option would have precluded the need to close two regional offices.

FTC's Executive Director told us that at the time FTC was developing the restructuring proposal, FTC officials believed that additional funding to handle the increased workload was unlikely because the agency's experience over the past several years had been to receive budget authority, which was less than the amount requested from Congress. She said that the fiscal year 1999 appropriation was the first in years in which FTC received more than it originally requested; the request to Congress was for \$112.8 million, and FTC received \$116.7 million—\$3.9 million more than requested. She said that FTC anticipates using most, if not all, of the \$3.9 million increase on a toll-free telephone number for the consumer complaint handling center and enhancements to a consumer fraud database. These items were included in FTC's 1999 conference report, which accompanied its appropriation.[1] The Executive Director told us that regardless of the increased funding, FTC would continue to pursue restructuring because its proposal was intended to make the most efficient use of FTC's resources. She added that no amount of additional funding or full-time equivalents (FTE) would change FTC's position. Appendix VII provides a more detailed discussion of FTC's prior requests for funding and its use of FTEs.

Option 4 - Limit Resources to More "Traditional" Competition Work

Boston regional officials suggested that FTC should focus on its "traditional" competition mission, rather than pursue new, resource-intensive, "cutting edge" competition cases at the expense of regional coverage and consumer protection. The officials said they believe such an approach would enable FTC to maximize its resources to deal with the merger workload while continuing to meet regional consumer protection needs.

OED and BC officials stated that there is no clear definition of what is "traditional" competition work versus what is "cutting edge" competition work and that the Commissioners and the federal courts have been in agreement with the work that BC has undertaken over the past several years.

[1] H.R. Conf. Rep. No. 105-825, at 1091 (1998).

Option 5 - Maintain the Status Quo and Allow Regional Offices to Pool Resources

Boston regional officials said that, in their view, regional offices operate at an exemplary level on consumer protection matters and that regional offices provide irreplaceable, comprehensive consumer education and outreach services and make solid contributions on competition work. They suggested that FTC could maintain the status quo but more formally have regional offices pool their resources in order to work on large HSR merger cases, which is similar to the informal resource sharing that regions currently perform.

OED officials said that occasionally officials from more than one regional office or from both the regions and BC headquarters offices work jointly on merger cases. However, the Executive Director said that FTC did not consider this as a viable long-term option because FTC could not afford the travel funds needed for attorneys to travel to other locations to work on large, complex cases for extended periods of time. Further, FTC's Executive Director said that maintaining the status quo was not a viable option because it would not allow FTC to address the underlying reason for developing the proposal—coping with a growing and more complex workload with limited resources.

Option 6 - Increase the Number of Staff in Each Regional Office

The regional officials suggested that FTC should have considered the option of allocating more staff to the regions. In their view, headquarters staff tend to be specialized; and, if more staff were allocated to the regions, they could be used in a more flexible manner to handle fluctuations in competition or consumer protection activity.

FTC's Executive Director said that this option would cut back resources where the agency needs them most—headquarters. She said that headquarters is best equipped to handle the largest, most complex merger investigations and antitrust litigation, rulemaking, and the largest consumer protection cases. She added that these are the areas that represent the main increase in FTC's workload.

Option 7 - Redistribute Consumer Protection and Competition Resources Within Regional Offices

Boston regional office staff suggested that, based on staff expertise or geographic location, FTC could have some offices place greater emphasis on competition issues as the need arises. They also suggested that competition work could be consolidated into two or three offices, thus eliminating the need to close offices. In fiscal year 1998, FTC devoted about 75 percent of its regional resources to consumer protection matters and approximately 25 percent to competition matters.

FTC's Executive Director said that this alternative would shift resources away from the consumer protection mission, which was not realistic.

Option 8 - Relocate BCP Headquarters Staff to the Regions

Boston regional officials suggested that, given the regional offices' proven success in generating and litigating consumer protection matters, FTC should have considered shifting consumer protection resources from headquarters to the regions. The officials said they believe this would give regional consumer protection staff the ability to relocate to geographic areas they might find attractive and give them the opportunity to work on a wide range of issues.

FTC's Executive Director said that this option would cut back resources where the agency needs them most—headquarters—as discussed under option 6.

Option 9 - Keep Boston and Denver Regions Open at Reduced Staffing Levels

We also asked FTC officials if they had considered the possibility of keeping the Denver and Boston offices open, but at reduced staffing levels so that FTC could continue to address consumer protection work in those areas.

The Executive Director said that FTC had not considered this option but that she believed that such an option would still not enable FTC to address its increased workload and the limited resource problem. The BCP Director said that, in her view, it is hard to justify smaller field offices because of the availability and ease of transportation.

Option 10 - Adopt a Regional Structure With Fewer Offices

FTC's 1987 study included options for different regional structures, including a five-region structure. According to FTC officials, FTC did consider closing more than two regional offices but decided that doing so would be too disruptive to operations. FTC decided that it could attain the critical mass of staff needed in the antitrust centers and increase the number of staff at headquarters by closing only two offices.

Selected Information on FTC's Funding and FTE History

FTC Officials Said Their Proposal Was About Efficient Use of Resources and Not About Funding

Boston and Denver regional officials suggested that instead of closing two regional offices, the Federal Trade Commission (FTC) could have requested increased funding from Congress to handle the demands of its increased workload. The Executive Director said the proposed regional office restructuring was not about increased funding and resource levels but about the most efficient allocation of those resources. She said that until recently FTC's requests for increased funding have not been approved. Further, she said that the fiscal year 1999 increase does not eliminate the need for FTC to restructure its operations as proposed. This appendix presents information on FTC's recent funding and full-time equivalent (FTE) history.[1]

Until Recently, FTC Received Appropriations That Were Less Than Requested

The FTC Executive Director said that until the fiscal year 1999 appropriations, for the past several years, FTC has asked for larger appropriations than it has received. For example, she said that in 1996, the request to Congress was for $108 million, and the agency received budget authority of just under $99 million; in 1997 the request was for $104 million, and FTC received budget authority of under $102 million; and in 1998, the request was for $108 million, and the resulting budget authority was $106.5 million. The fiscal year 1999 request to Congress was for $112.8 million, and FTC received budget authority of $116.7 million—$3.9 million more than requested. According to the Executive Director, FTC anticipates using most, if not all, of the $3.9 million increase on enhancements to the consumer complaint handling center, including a toll-free number, and on enhancements to a consumer fraud database, which were mentioned in the 1999 conference report.

FTC Officials Said the 1999 Appropriation Will Not Provide a Significant Increase in FTEs

The Executive Director said she believes the 1999 appropriation will fund, at most, the 979 FTEs that FTC requested. She said that FTC's budget office staff were currently analyzing the appropriation to determine how many FTEs that FTC could fund in fiscal year 1999. She said that the 979 FTE figure represents an increase of 19 FTEs over the fiscal year 1998 appropriations—of which 9 FTEs are targeted for the Bureau of Consumer Protection, 9 to the Bureau of Competition and 1 to the Bureau of Economics. She indicated that a potentially complicating factor is that the President's budget request anticipated only a 3.1 percent salary increase for federal employees, and that it appeared that the actual amount would

[1] An FTE generally consists of one or more employed individuals who collectively complete 2,080 work hours in a given year. Therefore, either one full-time employee or two half-time employees equal one FTE.

be higher.[2] She said that this could potentially decrease the funding available for additional FTEs in fiscal year 1999.

OED Officials Said FTC Has Not Used its Authorized FTEs But Has Used Most of Its Funded FTEs in Recent Years

FTC's Executive Director said that at times, FTC has not been able to use or hire up to its authorized level of FTEs because the amount funded by Congress has fallen short of the authorized level.[3] However, she also said that FTC had used most of its funded FTEs in recent years. She provided the following example relating to FTC's 1996 reprogramming request and a subsequent approval letter between the FTC and its House Appropriations Subcommittee to show the funded FTE level in recent years. The request states,

" (W)hile the FTC's authorized level of FTE has remained relatively stable at 979, funding levels have consistently supported between 940 and 950 FTE. In fiscal year 1996 the Commission expects to utilize about 940 FTE, compared to 944 FTE in fiscal year 1995. The President's fiscal year 1997 request for the Commission will support approximately the same FTE level."

According to the Executive Director, the response from the House Appropriations Subcommittee recognized FTC's funded FTE level as 940 in that additional funds approved for use by the FTC will

"augment the level of resources provided in the fiscal year 1996 appropriations bill, so that the FTC can maintain staffing levels of 940 FTE."

The Executive Director provided data showing that FTC exceeded its funded FTE level in fiscal year 1995, was one FTE short of its funded FTE level in fiscal year 1996, was two FTEs short of its funded level in fiscal year 1997, and exceeded its funded FTEs in fiscal year 1998. Table VII.1 presents information on FTC's fiscal year 1995 through 1999 requested, funded, and actual FTEs.

[2]On December 9, 1998, President Clinton signed Executive Order 13106, which established an average of a 3.6 percent salary increase for fiscal year 1999 for federal employees.

[3] The authorized level of FTEs referred to by FTC is the level of FTEs approved by the Office of Management and Budget and not necessarily a level of FTEs set in law or committee report.

Table VII.1: FTC's FTE Budget Data, Fiscal Years 1995-1999

Year	Requested FTEs[a]	Funded FTEs	Actual FTEs	Actual FTEs over (under) funded FTEs
1995	979	940	944	4
1996	979	940	939	(1)
1997	940	940	928	(12)
1998	960	960	964.5	4.5
1999	979	975[b]	[c]	[c]

[a]The amount from the President's Budget Request.

[b]FTC estimate.

[c]Data not yet available.

Source: Office of the Executive Director, FTC.

Comments From the Federal Trade Commission

OFFICE OF
THE COMMISSIONER

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

January 8, 1999

The Honorable David M. Walker
Comptroller General
U. S. General Accounting Office
Washington, D. C. 20548-0001

Dear Mr. Walker:

The Federal Trade Commission appreciates the opportunity to review and comment on the draft report entitled Federal Trade Commission: Information on FTC's Regional Office Restructuring Proposal (GAO/GGD-99-25), submitted by the General Accounting Office on December 17, 1998. The Report discusses the FTC's plan to restructure its regional office operations. Among other things, the plan would consolidate ten existing offices into eight and offer relocation to all 25 affected employees. The plan to restructure the regions was approved by each of us on a bipartisan basis in June 1998. It was a management decision carefully made, and only after consulting with approximately two dozen Members of Congress or their senior staff over several months.

Since July, we have worked cooperatively with GAO by providing information that presents a full picture of the FTC's mission and the steps we are taking to ensure that the Commission meets the needs of American consumers, including the restructuring of our regional operations. We would, nonetheless, like to take this opportunity to clarify five points.

- First, the regional office restructuring addresses fundamental changes in the consumer marketplace and an enormous increase in our enforcement workload. In considering this action, we took into account the views of our stakeholders concerning market changes and trends. Involved in the process were consumer groups, business, the media, academics, practitioners, and law enforcement colleagues at the federal, state, and local levels.

- Second, the regional office restructuring is part of a larger Commission-wide effort to make our operations more responsive to consumers by incorporating new technologies,

deploying limited staff to areas of greatest need, and increasing our efficiency. In the past four years, *every organizational element of the Commission* has been subjected to a top-down, bottom-up review. Regional office consolidation is the most recent of our continuing efforts to spend our resources wisely and efficiently.

- Third, the restructuring from ten to eight regional offices will in no way diminish our effectiveness in addressing consumer problems in any region. To the contrary, we believe that restructuring provides an important opportunity to better serve consumers in partnership with our federal, state, and local law enforcement colleagues throughout the country.

- Fourth, focusing regional office antitrust enforcement in three offices, another aspect of the restructuring plan, will significantly increase the staff working on antitrust matters in those offices and enable us to address our competition mission better.

- Finally, the restructuring plan takes into account human costs by not calling for anyone to be terminated.

1. The FTC's regional office restructuring plan is responsive to what we and our stakeholders say markets and mergers are today and where they will be in the foreseeable future.

Not too many years ago, most fraud was conducted the way business was -- face-to-face and door-to-door. Today, fraud has no borders. With recent fundamental changes in technology and communications, con artists rarely live in the same state as their victims, and transactions are increasingly instantaneous, anonymous, and hard to trace. Indeed, scam artists from Miami to Moldova are using the telephone and the Internet to defraud consumers from Montana to Maine. The explosive growth of the Internet, the globalization of commerce, and changes in telecommunications have given fraud artists a national -- even international -- reach.

Similar market changes have led to the largest merger wave in history during this last decade of the 20th Century. Our nation is currently in the eighth straight year of increased and unprecedented merger activity. The number of mergers reported to the FTC annually since 1991 has tripled (1529 in 1991 compared to 4728 in 1998), while their total value has increased nearly nine-fold, topping the trillion dollar mark last year. As mandated by Congress under the Hart-Scott-Rodino Act, every one of these mergers must be reviewed under tight deadlines to assess their impact on consumers. While most of these mergers will prove to be competitively neutral, or even beneficial for American consumers, investigating and litigating those mergers that could harm consumers require increasingly more resources.

The bottom line: the FTC is a small agency with a big mission, caught between a rock -- the new, nature of consumer fraud -- and a hard place -- the unprecedented merger wave. In hearings and workshops on the emerging global high-tech marketplace held at the FTC in 1995, a wide-range of stakeholders helped us identify the changes and challenges that were likely to occur. We heard from consumer groups, business, the media, academics, practitioners, and our law enforcement partners at the federal, state and local levels. At the same time, we began a strategic planning process, involving senior staff across the agency, to help us work smarter, better meet our mission, and improve service to consumers and other customers -- in short, to modernize the FTC. This process was undertaken with the goal of making the FTC capable of meeting these challenges without a proportional increase in resources.

2. The regional office restructuring is part of the Commission's broader effort to efficiently and effectively deploy our limited staff resources to make our operations more responsive to consumers needs.

The decision to restructure is part of the FTC's long-range management initiative to operate more efficiently and effectively in the new marketplace and to better serve American consumers, the business community, and our law enforcement colleagues. It is consistent with other management changes in every division of the agency, including incorporating new technologies, streamlining procedures, consolidating functions, and downsizing and/or redeploying staff for rapid response to new issues. In the last two years, we eliminated a middle-management layer, moved over 15 work years from support functions to the front lines of the missions, and stretched salary dollars by hiring more lower-cost staff wherever possible. These efforts were aimed at redirecting resources to where they are needed most: law enforcement.

The proposal to redirect resources and restructure the regions was similarly designed to improve and focus staff expertise and efficiency, minimize the disruption that merger matters wreak on small offices, maximize systematic and coordinated outreach with current and relevant information, and streamline administration -- in short, to give consumers an even better deal for their tax dollars.

3. The restructuring to eight regional offices will in no way diminish our effectiveness in addressing consumer problems in any region; indeed, it complements the steps we have taken in recent years to increase our effectiveness and better assist our federal, state, and local law enforcement partners throughout the country.

As part of its overall strategy to improve responsiveness to consumers and stakeholders, the FTC has also put in place comprehensive outreach plans and developed state-of-the-art technological tools to help federal, state, and local law enforcement agencies fight fraud no matter where it originates, and to protect and inform consumers no matter where they live. As a result, service to consumers and law enforcement agencies in all regions of the country has improved and will continue to improve under the restructuring plan. For example:

- Service to consumers will be even better: Currently, the vast majority of consumers who seek the FTC's help by telephone -- whether they call headquarters or a regional office -- must pay a long distance toll. Most calls are presently directed to the Commission's Consumer Response Center (CRC) in Washington, D.C., where a full-time staff of 20 responds to over 5,000 inquiries a week on about 130 different topics. Regional offices are unable to handle this call volume; indeed, some offices are able to answer consumer questions for only a few hours a day. As a result of recent funding, the CRC soon will be able to enormously improve its service to consumers. Congress has funded a toll-free telephone service that will be in place in March, staffed with 40 well-trained counselors, available full-time, to take calls from all regions. In short, when our new telephone service is in place, consumers across the country will have the direct benefits of expert counselors who will be available for longer hours of service, and on a toll-free line.

- Service to stakeholders will be improved: The CRC is also key to our improved service to our law enforcement partners, at the federal, state, and local levels. Consumer complaints received by the CRC are fed into our new electronic database, called Consumer Sentinel. That database, in turn, is available to all of our law enforcement partners: state attorneys general and other local, state, and federal law enforcement officials around the country. Using Consumer Sentinel's simple point-and-click technology, law enforcers can now identify fraudsters located in other states who are scamming consumers in their own states. They can use it to spot trends, target enforcement resources, and undertake joint efforts with other officials to stop nationwide scams. And it is becoming an even more powerful enforcement tool as more organizations, such as state BBBs, the National Fraud Information Center, AARP, and Canada's Phonebusters, contribute their complaint data.

  Improvements in the toll-free CRC will result in a centralized database that will continue to grow -- strengthening state and local law enforcement partnerships in a way not previously possible. Indeed, recognizing the unique value of Consumer Sentinel, Congress provided specific additional funds this year to support its growth and development.

- Old fashioned networking continues to be important: While the Commission believes that utilizing innovative programs will play an important part in improving service to stakeholders, we continue to value our face-to-face working relationship with law enforcement partners. In fact, we have closer cooperation with stakeholders -- including state attorneys general, state securities regulators, postal inspectors, weights and measures officials, FBI agents, consumer agency administrators, BBBs, and AARP volunteers -- than at any other time in our history. Our joint projects range from law enforcement sweeps to consumer education. A recent example is "Project Mailbox,"

initiated and led by the FTC, in which the Commission, all 50 states, and the Postal Inspection Service brought cases involving mail scams, which particularly plague the elderly. The AARP, BBB, and Yellow Pages Publishers Association also cooperated through a coordinated consumer education effort.

We believe that the regional office restructuring presents important opportunities to bolster these relationships with our state and local partners, by combining the above-described innovations with an extensive outreach plan in those areas affected by the regional office closings, and by more targeted efforts to address specific needs identified by stakeholders in those areas. Within six months after implementation of the restructuring, we will report back to Members of Congress on the results of our efforts.

4. Restructuring will improve our ability to handle our antitrust workload.

As currently configured, the regional offices are too small to handle almost all Hart-Scott-Rodino merger work. Those investigations involve tight deadlines and the analysis of large quantities of documents, which require the work of numerous attorneys, economists, and paralegals. The ten regional offices, with just five competition work years each, cannot staff these matters adequately without compromising their consumer protection responsibilities. Merger review is a growing part of the agency's workload. Since 1991, the percentage of competition work years devoted to mergers agency-wide has grown from 56% to 71%. Concentrating regional office competition work years in three offices will provide economies of scale that will enable those offices to make a more productive contribution to the Commission's competition mission.

5. To the extent possible, the plan takes into account the human costs of such changes and does not call for anyone to be terminated.

The FTC's plan offers current employees -- 12 in Boston and 13 in Denver -- positions elsewhere in the agency, either in Washington or another regional office. We need, and want to keep, our experienced staff, but we need them to work among the 1,000 FTC employees at other locations. We are committed to assisting Boston and Denver employees with the transition, whether they elect to relocate or stay put. For those who relocate, we will offer full moving reimbursement, with house-hunting trips and temporary living allowances. We also will try to accommodate employee relocation preferences. For those employees who choose not to move, the FTC has engaged outplacement counselors to provide a full range of services, and will offer early retirement options and full severance benefits.

For all of these reasons, the Commission believes that the regional office restructuring provides an important management opportunity to ensure that the FTC's regional offices play an effective, efficient, and integral role in how the agency faces its future challenges. In doing so, the FTC will be better able to protect consumers throughout America.

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